**Tab 1**  **CS/SB 542** by **IS, Brandes**; (Compare to CS/CS/H 00453) Mobility Devices and Motorized Scooters

**Tab 2**  **CS/SB 676** by **IS, Hooper**; (Similar to CS/CS/CS/1ST ENG/H 00475) Certificates of Title for Vessels

<table>
<thead>
<tr>
<th>Number</th>
<th>Letter</th>
<th>Status</th>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>545880</td>
<td>A</td>
<td>S</td>
<td>RCS</td>
<td>ATD, Hooper</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>btw L.1073 - 1074: 04/11 04:47 PM</td>
</tr>
</tbody>
</table>

**Tab 3**  **CS/CS/SB 892** by **JU, CM, Passidomo**; (Similar to CS/H 01009) Business Organizations

**Tab 4**  **CS/SB 1054** by **CA, Lee**; (Similar to CS/H 00009) Community Redevelopment Agencies

**Tab 5**  **SB 1306** by **Book (CO-INTRODUCERS) Pizzo**; (Similar to H 01359) Women’s Suffrage Centennial Commemoration Committee

<table>
<thead>
<tr>
<th>Number</th>
<th>Letter</th>
<th>Status</th>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>285186</td>
<td>D</td>
<td>S</td>
<td>RCS</td>
<td>ATD, Book</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Delete everything after 04/11 04:20 PM</td>
</tr>
</tbody>
</table>

**Tab 6**  **SB 7096** by **JU**; (Similar to H 07111) Constitutional Amendments

<table>
<thead>
<tr>
<th>Number</th>
<th>Letter</th>
<th>Status</th>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>400932</td>
<td>A</td>
<td>S</td>
<td>RCS</td>
<td>ATD, Simmons</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Delete L.45 - 51: 04/11 04:26 PM</td>
</tr>
</tbody>
</table>
## COMMITTEE MEETING EXPANDED AGENDA

**APPROPRIATIONS SUBCOMMITTEE ON**  
**TRANSPORTATION, TOURISM, AND ECONOMIC DEVELOPMENT**  
**Senator Hutson, Chair**  
**Senator Thurston, Vice Chair**

**MEETING DATE:** Tuesday, April 9, 2019  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** Toni Jennings Committee Room, 110 Senate Building

**MEMBERS:** Senator Hutson, Chair; Senator Thurston, Vice Chair; Senators Brandes, Lee, Perry, Simpson, Taddeo, and Torres

### TAB BILL NO. and INTRODUCER BILL DESCRIPTION and SENATE COMMITTEE ACTIONS COMMITTEE ACTION

|   | CS/SB 542 | Infrastructure and Security / Brandes  
(Similar CS/H 453) |
|---|---|---|
| 1 | Mobility Devices and Motorized Scooters; Defining the term “micromobility device”; revising the definition of the term “motorized scooter”; providing that the operator of a motorized scooter or micromobility device has all of the rights and duties applicable to the rider of a bicycle, except the duties imposed by specified provisions that by their nature do not apply; exempting electric personal assistive mobility devices and motorized scooters from certain emblem requirements, etc. | IS 03/26/2019 Fav/CS  
ATD 04/09/2019 Favorable  
AP | Favorable  
Yeas 7 Nays 0 |

|   | CS/SB 676 | Infrastructure and Security / Hooper  
(Similar CS/CS/CS/H 475) |
|---|---|---|
| 2 | Certificates of Title for Vessels; Designating the “Uniform Certificate of Title for Vessels Act”; revising requirements for application for, and information to be included in, a certificate of title for a vessel; requiring the Department of Highway Safety and Motor Vehicles to retain certain information relating to ownership and titling of vessels; providing duties of the department relating to creation, issuance, refusal to issue, or cancellation of a certificate of title; providing for the rights of a purchaser of a vessel who is not a secured party; providing requirements for the transfer of ownership in a vessel, etc. | IS 03/20/2019 Temporarily Postponed  
IS 03/26/2019 Fav/CS  
ATD 04/09/2019 Fav/CS  
AP | Fav/CS  
Yeas 6 Nays 0 |
<table>
<thead>
<tr>
<th>TAB</th>
<th>BILL NO. and INTRODUCER</th>
<th>BILL DESCRIPTION and SENATE COMMITTEE ACTIONS</th>
<th>COMMITTEE ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>CS/CS/SB 892</td>
<td>Business Organizations; Providing requirements, authorizations, and prohibitions relating to when the terms of a plan or a filed document may be dependent on facts objectively ascertainable outside of the plan or filed document; revising the process authorizing a domestic or foreign corporation to correct a document filed by the Department of State; requiring certain certificates to be taken by certain entities as prima facie evidence of the facts stated; revising requirements and authorizations for the contents of articles of incorporation, etc.</td>
<td>Favorable Yeas 6 Nays 0</td>
</tr>
<tr>
<td></td>
<td>CS/Commerce and Tourism / Passidomo (Similar CS/H 1009, Compare H 615, S 272)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>CM 03/11/2019 Fav/CS</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>JU 03/25/2019 Fav/CS</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>ATD 04/09/2019 Favorable</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>AP</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>CS/SB 1054</td>
<td>Community Redevelopment Agencies; Requiring ethics training for community redevelopment agency commissioners; requiring a community redevelopment agency to publish certain digital boundary maps on its website; requiring the Department of Economic Opportunity to declare inactive community redevelopment agencies that have reported no financial activity for a specified number of years; specifying the level of tax increment financing that a governing body may establish for funding the redevelopment trust fund, etc.</td>
<td>Favorable Yeas 6 Nays 1</td>
</tr>
<tr>
<td></td>
<td>Community Affairs / Lee (Similar CS/H 9)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>CA 03/26/2019 Fav/CS</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>ATD 04/09/2019 Favorable</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>AP</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>SB 1306</td>
<td>Women’s Suffrage Centennial Commemoration Committee; Creating the committee adjunct to the Department of State; prescribing duties of the committee in order to ensure a suitable statewide observance of the centennial of women’s suffrage; requiring the Division of Historical Resources of the department to provide administrative and staff support, etc.</td>
<td>Fav/CS Yeas 7 Nays 0</td>
</tr>
<tr>
<td></td>
<td>Book (Similar H 1359)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>GO 04/02/2019 Favorable</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>ATD 04/09/2019 Fav/CS</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>AP</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TAB</td>
<td>BILL NO. and INTRODUCER</td>
<td>BILL DESCRIPTION and SENATE COMMITTEE ACTIONS</td>
<td>COMMITTEE ACTION</td>
</tr>
<tr>
<td>-----</td>
<td>------------------------</td>
<td>---------------------------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>6</td>
<td>SB 7096</td>
<td>Constitutional Amendments: Requiring a compensated petition gatherer to register with the Secretary of State and to attest that he or she is a Florida resident for a specified period before obtaining signatures on petition forms; requiring the name of the sponsor of an initiative to appear on the ballot with the percentage of donations received from certain in-state donors; prohibiting compensation for initiative petition gatherers or entities based on the number of petitions gathered, etc.</td>
<td>Fav/CS Yeas 5 Nays 3</td>
</tr>
</tbody>
</table>

Other Related Meeting Documents
I. Summary:

CS/SB 542 sets up a regulatory framework for authorizing the operation of micromobility devices and motorized scooters. The bill:

- Defines “micromobility device” and revises the definition of “motorized scooter.”
- Grants certain rights and applies certain duties to the operator of a micromobility device or motorized scooter that are the same as those of a bicycle rider.
- Specifies that a local government is not prevented from exercising its regulatory authority with respect to streets, highways, and sidewalks under its jurisdiction.
- Allows operation of a micromobility device or motorized scooter without a valid driver license.
- Excludes micromobility devices and motorized scooters from compliance with vehicle registration, licensing, and insurance requirements; requirement requirements for slow moving vehicles; and motor vehicle provisions related to licensing and license-plate display.
- Requires a person who offers motorized scooters or micromobility devices for hire to secure all such devices located in any area of the state where an active tropical storm or hurricane warning has been issued.

The bill has no fiscal impact on state expenditures or revenues.

The bill takes effect upon becoming a law.
II. Present Situation:

Share Programs

Some local governments across the country and in Florida have entered into agreements with bicycle and motorized scooter share programs to make bicycles and scooters available to the public. Some advocate that bicycles and scooters are additional modes of transportation that increase personal mobility, particularly for shorter urban trips. Others have urged local governments to ban them, citing safety concerns.¹

These share programs allow the public to rent and ride bicycles and motorized scooters on a short-term basis within designated geographical areas.²

Docked Bicycle Share Programs

Companies offering “docked” bicycles require their bicycles to be rented from and returned to designated, unmanned docking stations.³ Rental options vary by program, but generally allow some combination of a single use rate for a flat fee, or a weekly, monthly, or annual subscription allowing the member to rent a bicycle for either an unlimited number of rides or a certain number of minutes per day during the subscription period.⁴

Dockless Bicycle Share Programs

Companies offering “dockless” bicycles do not have stations located at fixed positions from where their bicycles must be rented and returned. The operator unlocks the bicycle using information provided by or transmitted from the program’s mobile application on his or her mobile phone, and the bicycle is used according to the terms of the program agreement. The program agreement may require the operator to sign a waiver of liability prior to using the bicycle, including waiver of liability by parents who rent a bicycle for their minor children.⁵

The absence of designated bicycle racks, stations, or hubs to dock the bicycles when not in use distinguishes the dockless bicycle sharing model from the docked bicycle sharing models.

Motorized Scooter Share Programs

In many of the business models, riders can use the motorized scooter share program’s app to locate and reserve a motorized scooter for a fee (typically $1) plus a per-minute fare. Within the...

² Some programs use “geofencing,” “a virtual boundary that triggers an action when crossed by a mobile device,” such as slowing the vehicle down or stopping it. See Route Fifty, One operator, Bird, expressed displeasure with the 12 mph speed limit the city imposed, Nyczepir, D., December 19, 2018, available at https://www.route fifty.com/smart-cities/2018/12/san- jose-moves-forward-scooter-geofencing-rule/153682/ (last viewed April 2, 2019).
³ Some programs use “geofencing,” “a virtual boundary that triggers an action when crossed by a mobile device,” such as slowing the vehicle down or stopping it. See Route Fifty, One operator, Bird, expressed displeasure with the 12 mph speed limit the city imposed, Nyczepir, D., December 19, 2018, available at https://www.route fifty.com/smart-cities/2018/12/san- jose-moves-forward-scooter-geofencing-rule/153682/ (last viewed April 2, 2019).
app, the rider can see locations of the motorized scooters available in the surrounding area as well as the battery charge and range of miles available on each motorized scooter. Once the motorized scooter is located, the rider can capture a barcode located on the motorized scooter via a cell phone camera to reserve and start the ride. The rider ends the ride by parking the motorized scooter and selecting to end the ride on the app. The rider receives a summary of the ride with the total amount of the fare. These motorized scooters are dockless and riders are able to leave the motorized scooters in a location of their choosing when they end their rides.  

Bicycle and motorized scooter share programs are not currently regulated by the state.

**Safety and Other Concerns**

The Center for Disease Control recently partnered with Austin, Texas, to conduct its first study of emergency services calls and injuries related to dockless electric scooters. In Austin, which has one of the oldest and biggest dockless scooter programs in the country, six scooter companies were operating a combined 11,000 vehicles in the city as of December of 2018. The study will examine 37 scooter-related emergency medical services calls and 68 scooter injuries reported at local hospitals in just a two-month period from September to November of 2018.

There have been reports of riders in Florida being injured but reports of injuries are inconsistent or minimal. Some doctors’ point to the need for useful data that will be produced only by the development of “a classification schema that does not currently exist: Was the scooter shared or privately owned? Was the user wearing a helmet? … Doctors are hoping more specific data will inform safety regulations…” Further, the frequency of injuries can be based upon a broad variation of factors such as traffic density, geography, weather conditions, the number of scooters deployed in a given local jurisdiction, the number and length of trips, or local laws.

Other concerns have been cited with respect to dockless motorized scooters related to riders being able to leave the scooters in a location of their choosing. Parking of dockless scooters has caused concerns relating to:

- Crowding and obstruction of sidewalks for pedestrians;
- Restricting the use of sidewalks for people with disabilities; and
- Scooters being left in the travel lanes of roadways.

---


10 *Supra* note 1.

11 *Id.*

12 *Supra* note 6.
Similar concerns have been raised with respect to the bicycle share programs, including bicycles being thrown into bodies of water, stranded in trees or on rooftops, and left in other undesirable locations.  

**Florida Uniform Traffic Control Law**

The Florida Uniform Traffic Control Law is codified in ch. 316, F.S. Unless expressly authorized, it is unlawful for any local government to pass or attempt to enforce any ordinance on a matter that is covered by state traffic control laws.  

**Bicycle Regulation**

Section 316.003(4), F.S, defines a “bicycle” as:

Every vehicle propelled solely by human power, and every *motorized bicycle* propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device. A person under the age of 16 may not operate or ride upon a motorized bicycle.

Under state traffic control laws bicyclists are considered vehicle operators and are generally required to obey the same rules of the road as other vehicle operators, including traffic signs, signals, and lane markings. Section 316.2065, F.S., governs the operation of bicycles in Florida and provides for a number of bicycle-specific regulations, including:

- A bicycle rider or passenger who is under 16 years of age must wear a bicycle helmet.
- A person may not knowingly rent or lease any bicycle to be ridden by a child who is under the age of 16 years unless:
  - The child possesses a bicycle helmet; or
  - The lessor provides a bicycle helmet for the child to wear.
- Every bicycle in use between sunset and sunrise shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and a lamp and reflector on the rear each exhibiting a red light visible from a distance of 600 feet to the rear.

---

14 Sections 316.002 and 316.007, F.S.
15 Section 316.2065(1), F.S.
16 Section 316.2065(3)(d), F.S.
17 Section 316.2065(15)(a), F.S.
18 Section 316.2065(7), F.S.
A person operating a bicycle on a sidewalk, or across a roadway on a crosswalk, must yield the right-of-way to any pedestrian and must give an audible signal before overtaking and passing the pedestrian.\(^{19}\)

A person operating a bicycle on a roadway must ride in the bicycle lane, but if there is no bicycle lane, the bicycle operator must ride as close to the right-hand curb as practicable. However, a bicycle operator may move to the center of the lane when:

- Overtaking and passing another bicycle or vehicle proceeding in the same direction;
- Preparing for a left turn at an intersection or into a private road or driveway; or
- Reasonably necessary to avoid any condition or potential conflict, including, but not limited to, a fixed or moving object, parked or moving vehicle, bicycle, pedestrian, animal, surface hazard, turn lane, or substandard-width lane, which makes it unsafe to continue along the right-hand curb or edge or within a bicycle lane.\(^{20}\)

A substandard width lane is any lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane.\(^{21}\) Bicycle operators operating a bicycle on a one-way highway with two or more marked traffic lanes may ride as near to the left-hand curb as practicable\(^{22}\) and bicycle operators may not ride more than two abreast on a roadway.\(^{23}\)

**Motorized Scooters Regulation**

A “motorized scooter” is any vehicle that doesn’t have a seat or saddle for the rider, is designed to travel on 3 wheels or less, and is not capable of going over 30 miles per hour on level ground.\(^{24}\)

Section 316.2128, F.S., requires a commercial seller of motorized scooters and miniature motorcycles to give notice that the vehicles are not legal to operate on public roads, may not be registered as motor vehicles, and may not be operated on sidewalks unless authorized by a local ordinance.\(^{25}\) The notice must be displayed at the place of business, appear in all forms of advertising offering the vehicles for sale, and be provided to a consumer prior to purchase.

**Local Traffic Control Authority**

State traffic control laws allow local authorities to exercise some discretion over matters relating to bicycle safety and operation. Section 316.008, F.S., grants local authorities a reasonable exercise of police power to regulate a number of traffic-related activities within their jurisdictions, including:

- The operation of bicycles;
- Restricting the use of streets;
- Establishing speed limits for vehicles in public parks;
- Regulating or prohibiting stopping, standing, or parking;

\(^{19}\) Section 316.2065(10), F.S.  
\(^{20}\) Section 316.2065(5)(a), F.S.  
\(^{21}\) Id.  
\(^{22}\) Section 316.2065(5)(b), F.S.  
\(^{23}\) Section 316.2065(6), F.S.  
\(^{24}\) Section 316.003(44), F.S.  
\(^{25}\) Local ordinance enacted under ss. 316.008(7) or 316.212(8), F.S.
• Prohibiting or regulating the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic;
• Regulating, restricting, or monitoring traffic by security devices or personnel on public streets and highway;
• Designating and regulating traffic on play streets;
• Regulating, restricting, or prohibiting traffic within the boundary of any airport owned by the state, a county, a municipality, or a political subdivision; and
• Adopting and enforcing such temporary or experimental regulations as may be necessary to cover emergencies or special conditions.

Section 316.008(7), F.S., authorizes a county or municipality to enact an ordinance to permit, control, or regulate the operation of vehicles, golf carts, mopeds, motorized scooters, and electric personal assistive mobility devices on sidewalks or sidewalk areas when such use is permissible under federal law and under certain conditions. Local authorities, in conjunction with the Department of Transportation, are authorized to determine when overtaking and passing or driving to the left of the roadway would be especially hazardous and may require signs and markings to be placed to designate a no-passing zone.

Driving on Sidewalks or Bicycle Paths

Section 316.1995, F.S., prohibits a person from driving any vehicle other than by human power upon a bicycle path, sidewalk, or sidewalk area, except upon a permanent or duly authorized temporary driveway, except:
• Pursuant to a local ordinance as authorized in s. 316.008, F.S., discussed above, or
• As provided in s. 316.212(8), F.S., relating to golf carts.

Additional Equipment Required on Certain Vehicles

Section 316.2225(7), F.S., requires in part that every slow-moving vehicle or equipment, animal-drawn vehicle, or other machinery designed for use and speeds less than 25 miles per hour being operated on a public highway to display a triangular slow-moving vehicle emblem.

III. Effect of Proposed Changes:

The bill sets up a regulatory framework for authorizing the operation of micromobility devices and motorized scooters.

Section 1 of the bill amends s. 316.003, F.S., to define the term “micromobility device” to mean “any motorized transportation device made available for private use by reservation through an online application, website, or software for point-to-point trips, which is incapable of traveling at

---

26 23 U.S.C. s. 217 authorizes a state to expend certain funds for construction of pedestrian walkways (sidewalks) and bicycle transportation facilities and for carrying out non-construction projects related to safe bicycle use. 23 U.S.C. s. 217(h) specifically prohibits motorized vehicles on trails and pedestrian walkways if such funds are used by the state to construct them, except for maintenance purposes; when snow conditions and state or local regulations permit, snowmobiles; motorized wheelchairs; when state or local regulations permit, electric bicycles; and such other circumstances as the US Department of Transportation Secretary deems appropriate. Failure to comply can result in the state’s loss of those federal funds.

27 Section 316.0875, F.S.
speeds greater than 20 miles per hour on level ground. This term includes motorized scooters and bicycles.”

The bill also revises the current definition of “motorized scooter” to include any vehicle or micromobility device powered by a motor with or without a seat or saddle for the use of the rider. The definition is also revised to reduce the maximum allowable speed of such vehicles or devices on level ground from 30 miles per hour to 20 miles per hour.

The reduced speed may increase safety for other users of sidewalks where bicycles and motorized scooters use the same sidewalks. However, this result may be offset to the extent that the bill results in increased use of the sidewalks by bicycles and motorized scooters.

Section 2 amends s. 316.1995, F.S., to allow a driver of a micromobility device or motorized scooter to drive upon sidewalks or bicycle paths, as provided in the amendments to s. 316.2128, F.S., by the bill.

Section 3 amends s. 316.2128, F.S., relating to the operation and sales of motorized scooters and miniature motorcycles. With respect to the operation of micromobility devices or motorized scooters, the bill:

- Grants the operator of a micromobility device or motorized scooter all of the rights and duties applicable to the rider of a bicycle under s. 316.2065, F.S., except those imposed by s. 316.2065(2), (3)(b), and (3)(c), F.S., which by their nature do not apply. These duties include: A person operating a bicycle must ride upon or astride a permanent and regular seat attached thereto; must carry any passenger who is a child under four years of age, or who weighs 40 pounds or less, in a seat or carrier that is designed to carry a child of that age or size that secures and protects the child from the moving parts of the bicycle; and must remain in immediate control of the bicycle when a passenger is in a child seat or carrier.

- Excludes a micromobility device or motorized scooter from compliance with the vehicle registration and insurance requirements of s. 320.02, F.S., and the vehicle licensing requirements of s. 316.605, F.S.

- Allows a person without a valid driver license to operate a micromobility device or motorized scooter.

Because riders of micromobility devices and motorized scooters would have the same rights and duties of bicycle riders under s. 316.2065, F.S. (with the identified exceptions that do not apply by their nature), riders of micromobility devices and motorized scooters would be bound by the provisions of that section of law. For example:

- A person under the age of 16 would be prohibited from operating or riding upon a micromobility device or motorized scooter.

- A rider or passenger under 16 on a micromobility device or motorized scooter would be required to wear a helmet.

Section 316.003(99), F.S., defines “vehicle” to mean “every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except personal delivery devices, mobile carriers, and devices used exclusively upon stationary rails or tracks.”

These duties include: A person operating a bicycle must ride upon or astride a permanent and regular seat attached thereto; must carry any passenger who is a child under four years of age, or who weighs 40 pounds or less, in a seat or carrier that is designed to carry a child of that age or size that secures and protects the child from the moving parts of the bicycle; and must remain in immediate control of the bicycle when a passenger is in a child seat or carrier.

Section 320.02, F.S., generally requires every owner or person in charge of a motor vehicle that is operated or driven on the roads of this state to register the vehicle in this state.

Section 316.605, F.S., generally requires every vehicle to be licensed in the name of the owner and provides requirements for display of the vehicle license plate.
• A rider of a micromobility device or motorized scooter on a roadway would be required to ride in the bicycle lane, but if there is no bicycle lane, as close to the right-hand curb as practicable.
• A rider of a micromobility device or motorized scooter on a sidewalk, or across a roadway on a crosswalk, would be required to yield the right-of-way to any pedestrian.

The bill specifies that s. 316.2128, F.S., may not be construed to prevent a local government, through the exercise of its powers under s. 316.008, F.S., from adopting an ordinance governing the operation of micromobility devices and motorized scooters on streets, highways, sidewalks, and sidewalk areas under the local government’s jurisdiction. Thus, except with respect to specific requirements in the bill, a local government retains its authority under s. 316.008, F.S., to regulate the operation of micromobility devices and motorized scooters in these areas. A local government could not, for example, require a person to have a valid driver license but could set a minimum age requirement for rentals of these devices. Alternatively, a local government could limit the areas where the devices could be operated or potentially prohibit operation of these devices completely.

The bill requires a person who offers micromobility devices or motorized scooters for hire to be responsible for securing all such devices located in any area of the state where the National Weather Service issues an active tropical storm or hurricane warning.

This section of the bill also removes references to motorized scooters in the consumer notice provisions currently contained in s. 316.2128, F.S.

**Section 4** amends s. 316.2225(7), F.S., to exclude micromobility devices and motorized scooters from equipment requirements related to display of a triangular slow-moving vehicle emblem for certain slow-moving vehicles.

**Section 5** amends s. 320.01, F.S., to exclude motorized scooters and micromobility devices from the definition of “motor vehicle” in ch. 320, F.S., relating to motor vehicle licensing provisions.

**Section 6** amends s. 655.960(1), F.S., to revise a cross-reference to conform to changes made by the bill.

**Section 7** provides that the bill is effective upon becoming law.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

   None.

B. Public Records/Open Meetings Issues:

   None.
C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Public access to micromobility devices and motorized scooters may increase if the bill results in additional local markets being opened to businesses offering these services. This may provide individuals with cheaper transportation options.

The bill may result in increased use of micromobility devices or motorized scooters, which could in turn increase the interactions of these devices with “conventional” traffic in roadways or with pedestrians on sidewalks. Increased interactions may result in outcomes of injuries or accidents.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Advocates point to the advantages of additional transportation options for shorter urban trips, thereby facilitating personal mobility as well as the potential for decreased congestion on urban roadways. Micromobility devices and motorized scooters have the potential to facilitate the “first-mile, last-mile, problem experienced by public transportation users who need help getting to and from the nearest bus stop. Opportunities for private investment in providing public


33 Id.
transportation options may assist local governments in providing transportation services to typically under-served populations. They enable a car-free lifestyle, and a majority of people view scooters positively.\textsuperscript{34}

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.1995, 316.2128, 316.2225, 320.01 and 655.960.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
   (Summarizing differences between the Committee Substitute and the prior version of the bill.)

\textbf{CS by Infrastructure and Security on March 26, 2019:}

The committee substitute removed the following provisions from the bill:

- Allowing county and municipal regulation of micromobility devices and motorized scooters if the regulation is not in conflict with ch. 316, F.S., and is no more restrictive than the regulation of bicycles.
- Establishing exclusive state and federal control of regulation of such devices and scooters.
- Authorizing counties and municipalities to require licensure of persons offering micromobility devices or motorized scooters for hire and requiring counties and municipalities to grant licenses if specified proof of insurance is provided.
- Authorizing a person to park such devices or scooters on sidewalks under certain conditions.

The committee substitute also provides:

- A local government is not prevented from exercising its traffic-related statutory powers with respect to streets, highways, and sidewalks under local government jurisdiction.
- A person who offers motorized scooters or micromobility devices for hire is responsible for securing all such devices in any area of the state where an active tropical storm or hurricane warning has been issued.

B. Amendments:

None.

By the Committee on Infrastructure and Security; and Senator Brandes

A bill to be entitled

An act relating to mobility devices and motorized scooters; amending s. 316.003, F.S.; defining the term "micromobility device"; revising the definition of the term "motorized scooter"; conforming a cross-reference; amending s. 316.1995, F.S.; conforming a provision to changes made by the act; amending s. 316.2128, F.S.; providing that the operator of a motorized scooter or micromobility device has all of the rights and duties applicable to the rider of a bicycle, except the duties imposed by specified provisions that by their nature do not apply; providing for construction; exempting a motorized scooter or micromobility device from certain registration, insurance, and licensing requirements; providing that a person is not required to have a driver license to operate a motorized scooter or micromobility device; requiring a person who offers motorized scooters or micromobility devices for hire to be responsible for securing all such devices located in any area of the state where a certain warning has been issued by the National Weather Service; deleting specified requirements for the sale of motorized scooters; amending s. 316.2225, F.S.; exempting electric personal assistive mobility devices and motorized scooters from certain emblem requirements; amending s. 320.01, F.S.; revising the definition of the term "motor vehicle"; amending s. 655.960, F.S.; conforming a cross-reference; providing

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsections (38) through (101) of section 316.003, Florida Statutes, are redesignated as subsections (39) through (102), respectively, a new subsection (38) is added to that section, and present subsections (44) and (59) of that section are amended, to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(38) MICROMOBILITY DEVICE.—Any motorized transportation device made available for private use by reservation through an online application, website, or software for point-to-point trips and which is not capable of traveling at a speed greater than 20 miles per hour on level ground. This term includes motorized scooters and bicycles as defined in this chapter.

(45) MOTORIZED SCOOTER.—Any vehicle or micromobility device that is powered by a motor with or without not having a seat or saddle for the use of the rider, which is designed to travel on not more than three wheels, and which is not capable of propelling the vehicle at a speed greater than 20 miles per hour on level ground.

(60) PRIVATE ROAD OR DRIVEWAY.—Except as otherwise provided in paragraph (82)(b) and (83)(b), any privately owned way or place used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other
Section 2. Section 316.1995, Florida Statutes, is amended to read:

316.1995 Driving upon sidewalk or bicycle path.—

(1) Except as provided in s. 316.008, or s. 316.212(8), or s. 316.2128, a person may not drive any vehicle other than by human power upon a bicycle path, sidewalk, or sidewalk area, except upon a permanent or duly authorized temporary driveway.

(2) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

(3) This section does not apply to motorized wheelchairs.

Section 3. Section 316.2128, Florida Statutes, is amended to read:

316.2128 Operation of Micromobility devices, motorized scooters, and miniature motorcycles; requirements for sale.—

(1) The operator of a motorized scooter or micromobility device has all of the rights and duties applicable to the rider of a bicycle under s. 316.2065, except the duties imposed by s. 316.2065(2), (3)(b), and (3)(c), which by their nature do not apply. However, this section may not be construed to prevent a local government, through the exercise of its powers under s. 316.008, from adopting an ordinance governing the operation of micromobility devices and motorized scooters on streets, highways, sidewalks, and sidewalk areas under the local government’s jurisdiction.

(2) A motorized scooter or micromobility device is not required to satisfy the registration and insurance requirements of s. 320.02 or the licensing requirements of s. 316.605.
On every slow-moving vehicle or equipment, animal-drawn vehicle, or other machinery designed for use and speeds less than 25 miles per hour, excluding electric personal assistive mobility devices and motorized scooters, but including all road construction and maintenance machinery except when engaged in actual construction or maintenance work either guarded by a flagger or a clearly visible warning sign, which normally travels or is normally used at a speed of less than 25 miles per hour and which is operated on a public highway, there must be a triangular slow-moving vehicle emblem SMV as described in, and displayed as provided in, this subsection paragraph (b).

(a) The requirement of the emblem shall be in addition to any other equipment required by law. The emblem shall not be displayed on objects which are customarily stationary in use except while being transported on the roadway of any public highway of this state.

(b) The Department of Highway Safety and Motor Vehicles shall adopt such rules and regulations as are required to carry out the purpose of this section. The requirements of such rules and regulations shall incorporate the current specifications for SMV emblems of the American Society of Agricultural Engineers.

Section 5. Paragraph (a) of subsection (1) of section 320.01, Florida Statutes, is amended to read:

320.01, Florida Statutes, is amended to read:
320.01 Definitions, general.—As used in this section and ss. 655.961-655.965, unless the context otherwise requires:

(1) “Access area” means any paved walkway or sidewalk which is within 50 feet of any automated teller machine. The term does not include any street or highway open to the use of the public, as defined in s. 316.003(82)(a) or (b) or s. 316.003(81)(a) or (b), including any adjacent sidewalk, as defined in s. 316.003.

Section 7. This act shall take effect upon becoming a law.
To: Senator Travis Hutson  
Appropriations Subcommittee on Transportation, 
Tourism, and Economic Development

Subject: Committee Agenda Request

Date: March 27, 2019

I respectfully request that Senate Bill #542, relating to Micro-mobility Devices and Motorized Scooters, be placed on the:

☑ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Jeff Brandes  
Florida Senate, District 24
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 4/19/19

Bill Number 54

Amendment Barcode (if applicable)

Topic Mobility Devices

Name Javier Correoso

Job Title

Address 80 SW 8th St Suite 1930

Phone 305-495-1101

Email JCorreoso@Uber.com

City Miami

State FL

Zip 33130

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Uber Technologies

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 4/9/19

Bill Number (if applicable) HB 542

Amendment Barcode (if applicable)

Topic

Name Chris Scoonover

Job Title

Address 101 E. College Ave ste 502

Phone 850-222-9075

Tallahassee FL 32301

Email chris@ccc-fla.com

City State Zip

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [x] In Support [ ] Against

(The Chair will read this information into the record.)

Representing Lime

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE

APPEARANCE RECORD

9 April 2019
Meeting Date

SB 542
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Micromobility Devices & Motorized Scooters

Name Diego Echeverri  “ Dee-yay-goh Etch-uh-vay-ree”

Job Title Director of Coalitions

Address 200 West College Ave
Street Tallahassee Fl
City State Zip

Phone 813-767-2084
Email delecheverri@afphq.org

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [x] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Americans For Prosperity

Appearing at request of Chair: [ ] Yes [ ] No
Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
I. Summary:

PCS/CS/SB 676 incorporates the Uniform Certificate of Title for Vessels Act into Florida’s existing vessel titling and lien law. The bill contains numerous revisions to current title application requirements, revises information that must be included on a certificate of title for a vessel, provides for the perfection of security interests in a vessel and for the rights of a secured party, provides requirements for the transfer of ownership in a vessel, and revises various duties and responsibilities of the Department of Highway Safety and Motor Vehicles (DHSMV) with respect to titling of vessels.

Generally, the bill:

- Provides requirements for applications for certificates of titles for vessels, including their detailed content, and provides exceptions from the requirement to apply for a certificate.
- Provides responsibilities of an owner and insurer of a hull-damaged vessel and of the DHSMV when creating a certificate of title.
- Specifies that possession of a certificate of title does not by itself provide a right to obtain possession of a vessel, but nothing prohibits enforcement of a security interest in, levy on, or foreclosure of a statutory or common-law lien on a vessel.
- Provides the DHSMV with duties relating to the creation, issuance, refusal to issue, or cancellation of a certificate of title, and provides additional requirements for obtaining a duplicate certificate of title.
• Sets out requirements for the determination and perfection of a security interest in a vessel and for the delivery of a statement of the termination of a security interest.
• Provides for the rights of a purchaser of a vessel who is not a secured party and for the rights of a purchaser who is a secured party.
• Specifies circumstances by which the DHSMV may create a new certificate of title after the receipt of an application for a transfer of ownership or termination of a security interest, without the applicant providing a certificate of title.
• Provides requirements for the voluntary transfer of vessel title ownership, transfer by a secured party, and transfer by operation of law.
• Applies the bill to any transaction, certificate of title, or record relating to a vessel entered into or created before July 1, 2023, but provides for certain exceptions.

The bill will have an insignificant fiscal impact on the DHSMV, which will be absorbed within existing resources. The bill has an indeterminate, but possibly neutral impact to the Marine Resources Conservation Trust Fund of the Fish and Wildlife Conservation Commission.

The bill takes effect July 1, 2023.

II. Present Situation:

Uniform Law Commission

The Uniform Law Commission (ULC), also known as the National Conference of Commissioners on Uniform State Laws, is a body “appointed by state governments as well as the District of Columbia, Puerto Rico[,] and the U.S. Virgin Islands to research, draft[,] and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical.”\(^1\) The ULC aims to strengthen the federal system by providing rules and procedures that are consistent from state to state.

Uniform Certificate of Title for Vessels Act

The Uniform Certificate of Title for Vessels Act was drafted by the ULC in 2011.\(^2\) The principal objectives of the act are to:
• Qualify as a state titling law that the Coast Guard will approve;
• Facilitate transfers of ownership of a vessel;
• Deter and impede the theft of vessels by making information about the ownership of vessels available to both government officials and those interested in acquiring an interest in a vessel;
• Accommodate existing financing arrangements for vessels;
• Work seamlessly with the Uniform Commercial Code;
• Manage, to the extent possible, the complications that can arise from a vessel’s transition in or out of federal documentation;
• Provide clear rules on the consequences of compliance or noncompliance;

---
• Impose minimal or no new burdens or costs on state titling offices; and
• Protect buyers and others acquiring an interest in an undocumented vessel by requiring that the title for the vessel be branded if a casualty or sinking has caused significant damage to the vessel’s hull integrity.


Vessel Titling in Florida

The bill substantially revises part I of ch. 328, F.S., related to titling for vessels. For ease of organization and readability, the present situation for each section of the bill is discussed in conjunction with the effect of proposed changes.

III. Effect of Proposed Changes:

The bill revises current law by enacting the Uniform Certificate of Title for Vessels Act. Section 1 of the bill creates s. 328.001, F.S., providing the short title for part I of ch. 328, F.S., the “Uniform Certificate of Title for Vessels Act.” Section 2 of the bill creates s. 328.0015, F.S., to establish definitions for terms used in the uniform act.

The bill defines a “vessel” to mean a watercraft used or capable of being used as a means of transportation on water, except:
• A seaplane;
• An amphibious vehicle for which a certificate of title is issued pursuant to chapter 319, F.S. or a similar statute of another state;
• Watercraft less than 16 feet in length and propelled solely by sail, paddle, oar, or an engine of less than 10 horsepower;
• Watercraft that operate only on a permanently fixed, manufactured course and the movement of which is restricted to or guided by means of a mechanical device to which the watercraft is attached or by which the watercraft is controlled;
• A stationary floating structure that:
  o Does not have and is not designed to have a mode of propulsion of its own;
  o Is dependent for utilities upon a continuous utility hookup to a source originating on shore; and
  o Has a permanent, continuous hookup to a shoreside sewage system.
• Watercraft owned by the United States, a state, or a foreign government, or a political subdivision of either; and
• Watercraft used solely as a lifeboat on another watercraft.

Application for Certificate of Title

Present Situation

An owner of a vessel that is required to be titled must apply to the DHSMV or county tax collector for a certificate of title. The application must be signed by the owner and include the:

- True name of the owner;
- Address of the owner;
- Hull identification number; and
- Complete description of the vessel.

The owner must provide valid identification and pay the prescribed fee.

An original copy of the manufacturer’s statement of origin for the vessel must be submitted with the application for title of a manufactured vessel sold in Florida. The owner of a manufactured vessel initially sold outside of Florida must provide an original copy of the manufacturer’s statement of origin, or the original copy of the executed bill of sale, and the most recent certificate of registration for the vessel.

The owner of a homemade vessel must establish proof of ownership by submitting with the application a notarized statement of the builder (if the vessel is less than 16 feet in length) or a certificate of inspection from the Fish and Wildlife Conservation Commission and a notarized statement of the builder (if the vessel is 16 feet or more in length).

The owner of a non-titled vessel registered outside of Florida must establish proof of ownership by surrendering the original copy of the most current certificate of registration issued by the other state or country. If a vessel is titled in another state or country, the DHSMV will not issue a Florida title until all existing titles are surrendered to the DHSMV.

In making application for a title upon transfer of ownership of a vessel, the new owner must surrender a properly executed last title document issued for that vessel. If a lien exists and the application for transfer of title is based upon a contractual default, the recorded lienholder must establish proof of right to ownership by submitting with the application the original certificate of title and a copy of the applicable contract upon which the claim of ownership is made. If the claim is based upon a court order or judgment, a copy of such document must accompany the application for transfer of title. If there appears to be any other lien on the vessel, the certificate of title must contain a statement of such a lien.

In making application for transfer of title from a deceased titled owner, the new owner or surviving co-owner must establish proof of ownership by submitting with the application the

---

5 Section 328.01(1)(a), F.S.
6 Section 328.01(2)(a) and (b), F.S.
7 Section 328.01(2)(c), F.S.
8 Section 328.01(2)(d), F.S.
9 Section 328.01(2)(e), F.S.
10 Section 328.01(3)(a) and (b), F.S.
original certificate of title and the decedent’s probated last will or letters of administration appointing the personal representative of the decedent. In lieu of a probated last will and testament or letters of administration, a copy of the decedent’s death certificate, a copy of the decedent’s last will and testament, and an affidavit by the decedent’s surviving spouse or heirs affirming rights of ownership may be accepted by the DHSMV.11

An owner who has made a valid sale or transfer of a vessel and has delivered possession to a purchaser will not be considered the owner of the vessel and subject to civil liability for the operation of the vessel as long as the owner has surrendered the properly endorsed certificate of title to the DHSMV.12

**Effect of Proposed Changes**

**Section 3** amends s. 328.01, F.S., providing that with certain newly created and amended statutory exceptions (discussed below), only an owner (“a person who has legal title to a vessel”) may apply for a certificate of title.

The bill requires that an application for certificate of title must be signed by the applicant and contain the following information:

- The applicant’s name, street address, and, if different, mailing address;
- The name and mailing address of each other owner of the vessel;
- The hull identification number for the vessel or, if none, an application for the issuance of a hull identification number for the vessel;
- The vessel number for the vessel or, if none issued by the DHSMV, an application for a vessel number;
- A description of the vessel, which must include:
  - The official number for the vessel, if any, assigned by the United States Coast Guard;
  - The name of the manufacturer, builder, or maker;
  - The model year or in which year the vessel was completed;
  - The overall length of the vessel;
  - The vessel type;
  - The hull material;
  - The propulsion type;
  - The engine drive type, if any; and
  - The fuel type, if any;
- The name and mailing address of any party with a security interest in the vessel;
- A statement that the vessel is not a documented vessel or a foreign-documented vessel;
- Any title brand13 known to the applicant and, if known, the jurisdiction under whose law the title brand was created;
- A statement that the vessel is hull damaged,14 if applicable;

---

11 Section 328.01(3)(c), F.S.
12 Section 328.01(3)(d), F.S.
13 The bill defines “title brand” as a designation of previous damage, use, or condition that must be indicated on a certificate of title.
14 The bill defines “hull damaged” as compromised with respect to the integrity of a vessel’s hull by a collision, allision, lightning strike, fire, explosion, running aground, or similar occurrence, or the sinking of a vessel in a manner that creates a significant risk to the integrity of the vessel’s hull.
• If the application is made in connection with a transfer of ownership, the transferor’s name, street address, and, if different, mailing address, the sales price if any, and the date of the transfer; and
• If the vessel was previously registered or titled in another jurisdiction, a statement identifying each jurisdiction known to the applicant in which the vessel was registered or titled.

Additionally, the application may include an electronic address for the owner, transferor, or secured party.

The application for certificate of title must be accompanied by:
• A certificate of title signed by the owner shown on the certificate and that:
  o Identifies the applicant as the owner of the vessel; or
  o Is accompanied by a record that identifies the applicant as the owner; or
• If there is no certificate of title:
  o If the vessel was a documented vessel, a record issued by the United States Coast Guard which shows the vessel is no longer a documented vessel and identifies the applicant as the owner;
  o If the vessel was a foreign-documented vessel, a record issued by the foreign country which shows the vessel is no longer a foreign-documented vessel and identifies the applicant as the owner; or
  o In all other cases, a certificate of origin,¹⁵ bill of sale, or other record that to the satisfaction of the DHSMV identifies the applicant as the owner.

The bill requires the DHSMV to maintain any records submitted in connection with an application, and authorizes the DHSMV to require an application for a certificate of title to be accompanied by payment of all fees and taxes by the applicant.

The bill repeals provisions related to registration of homemade vessels. The bill also repeals provisions related to nontitled vessels, vessels titled in other jurisdictions, vessels documented by the federal government, and transfer of ownership, including from a deceased owner, that may be covered by the more extensive application requirements created by the bill.

**DHSMV Records**

**Effect of Proposed Changes**

**Section 4** creates s. 328.015, F.S., to require the DHSMV to retain the evidence used to establish the accuracy of the information in its files relating to the current ownership of a vessel and the information on the certificate of title. The DHSMV must retain all information, by hull identification number, regarding a security interest in a vessel for at least 10 years after the DHSMV receives a termination statement regarding the security interest.

¹⁵ The bill defines “certificate of origin” as a record created by a manufacturer or importer as the manufacturer’s or importer's proof of identity of a vessel. The term includes a manufacturer's certificate or statement of origin and an importer's certificate or statement of origin. The term does not include a builder's certificate.
A person who submits a record to the DHSMV may request an acknowledgement of the filing by the DHSMV. The acknowledgment from the DHSMV must show the hull identification number, the information in the filed record, and the date and time the record was received by or the submission was accepted by the DHSMV.

The DHSMV must send the following information to any person who requests it and pays a fee:
- Whether the DHSMV’s files indicate, as of the a date specified by the DHSMV but no earlier than three days before the request is received, a copy of any certificate of title, security interest, termination statement, or title brand that relates to a vessel;
  - Identified by a hull identification number designated in the request;
  - Identified by a vessel number designated in the request; or
  - Owned by a person designated in the request.
- With respect to the vessel:
  - The name and address of any owner and the secured party as indicated in the DHSMV’s files;
  - A copy of any termination statement indicated in the DHSMV’s files and the statement’s effective date; and
  - A copy of any certificate of origin, secured party transfer statement, transfer-by-law statement, and other evidence of previous or current transfers of ownership.

The DHSMV must, upon request, send the requested information in a record that is self-authenticating.

Governing Vessel Law

Effect of Proposed Changes

Section 5 creates s. 328.02, F.S., providing that the law of the state under whose certificate of title a vessel is covered governs all issues relating to the certificate from the time the vessel becomes covered by the certificate until the vessel becomes covered by another certificate, or becomes a documented vessel, even if no relationship exists between the jurisdiction and the vessel or its owner. A vessel becomes covered when an application and the applicable fee are delivered to the DHSMV or to the governmental agency that creates a certificate in another jurisdiction.

Certificate of Title Required

Present Situation

All vessels operated, used, or stored on the waters of Florida must be titled by the DHSMV unless the vessel is:
- A vessel operated, used, or stored exclusively on private lakes and ponds;

---

16 The bill defines the term “person” more broadly than under s. 1.01, F.S., to mean an individual, corporation, business trust, estate, trust, statutory trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
17 Currently, s. 320.05(3)(b), F.S., sets forth fees for photocopied and certified copies of records (ranging from 50 cents to $3 per record, or $1 per page). Fees are deposited into the Highway Safety Operating Trust Fund.
• A vessel owned by the United States Government;
• A non-motor-powered vessel less than 16 feet in length;
• A federally documented vessel;
• A vessel already covered by a registration number, if the vessel is not located in this state for a period in excess of 90 consecutive days;
• A vessel from a country other than the United States temporarily used, operated, or stored on the waters of this state for a period that is not in excess of 90 days;
• An amphibious vessel for which a vehicle title is issued by the DHSMV;
• A vessel used solely for demonstration, testing, or sales promotional purposes by the manufacturer or dealer; or
• A vessel owned and operated by the state or a political subdivision.18

A person may not operate, use, or store a vessel in Florida if the vessel has no certificate of title. However, a vessel may be operated, used, or stored for up to 180 days after the date of application for a certificate of title while the application is pending.19

When selling, assigning, or transferring a titled vessel, the seller must deliver a valid certificate of title to the purchaser. The purchaser has 30 days to file with the county tax collector an application for title transfer. The purchaser will be charged a $10 fee for filing a transfer application after the 30-day period.20 A certificate of title is prima facie evidence of the ownership of the vessel.21

Effect of Proposed Changes

Section 6 amends s. 328.03, F.S., requiring a vessel owner to deliver an application and fee for certificate of title for the vessel, not later than 30 days from the date of ownership or the date Florida becomes the state of principal use.

The bill creates new exceptions for titling vessels in Florida. An application for a certificate is not required for:
• A documented vessel;22
• A foreignocumented vessel;
• A barge;
• A vessel before delivery if the vessel is under construction or completed pursuant to contract;
• A vessel held by a dealer for sale or lease; and
• A vessel used solely for demonstration, testing, or sales promotional purposes by the manufacturer or dealer.

The bill repeals other current law exceptions because the definition of “vessel” created under the bill excludes certain vessels from the definition, and thus part I of ch. 328, F.S., no longer applies to them. This includes non-motor-powered vessels less than 16 feet in length; amphibious vessels

18 Section 328.03(1), F.S.
19 Section 328.03(2), F.S.
20 Section 328.03(3), F.S.
21 Section 328.03(4), F.S.
22 The bill defines “documented vessel” as a vessel covered by a certificate of documentation issued pursuant to 46 USC 12105 by the federal government.
for which a vehicle title is issued by the DHSMV; and vessels owned and operated by the state or political subdivisions.

Additionally, the bill provides requirements for issuing, transferring, or renewing a certificate of number of an undocumented vessel issued under federal law.

The bill repeals the provisions providing that a vessel may be operated, used, or stored for up to 180 days after the date of application for a certificate of title while the application is pending; and the provisions providing that when selling, assigning, or transferring a titled vessel, the seller must deliver a valid certificate of title to the purchaser.

Lastly, the bill specifies that a certificate of title is not only prima facie evidence of the ownership of the vessel, but also of the accuracy of the information in the record that constitutes the certificate.

Content of the Certificate of Title

Effect of Proposed Changes

Section 7 creates s. 328.04, F.S., to provide requirements for the content of a certificate of title. A certificate must contain:

- The date the certificate was created;
- The name of the owner of record and, if not all owners are listed, an indication that there are additional owners indicated in the DHSMV’s files;
- The mailing address of the owner of record;
- The hull identification number;
- A description of the vessel as required in s. 328.01(2)(e), F.S. (see above in discussion of Section 3 of the bill);
- The name and mailing address of the secured party of record, when applicable;
- All title brands indicated in the DHSMV’s files, including identification of the jurisdiction under whose law the title brand was created; and
- Previous registration or title in a foreign county, if applicable.

The written certificate of title must contain a form and certification that all owners can sign, subject to penalties of perjury, to consent to a transfer of an ownership interest to another person. The written certificate of title must also contain a form for the owner of record to indicate that the vessel is hull damaged.

Title Brands for Hull-Damaged Vehicles

Effect of Proposed Changes

Section 8 creates s. 328.045, F.S., providing responsibilities of an owner and insurer of a hull-damaged vessel. If damage occurred to a vessel while the individual was the owner of the vessel and the owner has notice of the damage at the time of the transfer, the owner must:

- Deliver to the DHSMV an application for a new certificate and include the “Hull Damaged” title brand designation; or
Indicate on the certificate that the vessel is hull damaged and deliver the certificate to the transferee.

Before an insurer transfers an ownership interest in a hull-damaged vessel that is covered by a certificate of title created by the DHSMV, the insurer must deliver an application to the DHSMV and include the title brand “Hull Damaged.”

Once the DHSMV receives the above information from an owner, transferee, or insurer, the DHSMV has 30 days to create a new certificate that includes the title brand designation “Hull Damaged.” An owner or insurer who fails to comply with the above disclosures or a person who solicits or colludes in a failure by an owner commits a noncriminal infraction under s. 327.73, F.S., for which the penalty is:
- $5,000 for the first offense,
- $15,000 for a second offense, and
- $25,000 for each subsequent offense.

Maintenance and Access to Vessel Title Files

**Effect of Proposed Changes**

Section 9 creates s. 328.055, F.S., requiring the DHSMV to maintain the information contained in all certificates of title and the information submitted with the application. Specifically, the DHSMV must:
- Ascertain or assign the hull identification number for the vessel.
- Maintain the hull identification number and all the information submitted with the application, including the date and time the record was delivered to the DHSMV.
- Maintain in its files for each vessel:
  - All title brands;
  - The name of each secured party known to the DHSMV;
  - The name of each person known to the DHSMV to be claiming an ownership interest in the vessel; and
  - All stolen property reports received by the DHSMV.
- Index the files of the DHSMV by hull identification number, vessel number, name of the owner of record, and any other method used by the DHSMV.

The DHSMV is required to release the information in its files to federal, state, or local governments. The bill specifies that information contained on the certificate of title is a public record and that all records relating to a certificate of title must be maintained by the DHSMV for public inspection.

---

23 This section of current law provides penalties for violations of the state’s vessel laws. All fees and civil penalties assessed and collected pursuant to s. 327.73, F.S., are remitted by the clerk of court to the Department of Revenue to be deposited into the Marine Resources Conservation Trust Fund for boating safety education purposes.
Creation of Certificate of Title

Effect of Proposed Changes

Section 10 creates s. 328.06, F.S., setting forth responsibilities of the DHSMV when creating a certificate of title. On creation of a written or electronic certificate of title, the DHSMV must promptly send the certificate or record evidencing the certificate to the secured party or owner of record.

If the DHSMV creates a written certificate of title, any electronic certificate of title for the vessel is canceled and replaced by the written certificate.

Before the DHSMV creates an electronic certificate of title, any written certificate must be surrendered to the department. If the DHSMV creates an electronic certificate, the DHSMV must destroy the written certificate or provide on the face of the certificate that it has been canceled.

The DHSMV must maintain in its files the date and time of cancellation of the electronic certificate or destruction or cancellation of the written certificate.

Effect of Possession of Certificate of Title

Effect of Proposed Changes

Section 11 creates s. 328.065, F.S., specifying that possession of a certificate of title does not by itself provide a right to obtain possession of a vessel. Nothing prohibits enforcement of a security interest in, levy on, or foreclosure of a statutory or common-law lien on a vessel. Absence of an indication of such a lien on a certificate does not invalidate the lien.

Duties Relating to Refusal to Issue/Authority to Cancel a Certificate of Title or Registration

Present Situation

The DHSMV may refuse to issue a certificate of title or registration to any applicant who provides a false statement pertaining to the application for a certificate of title. If the DHSMV determines that an owner or dealer named in a certificate of title provided a false statement in applying for the certificate of title, the DHSMV may cancel the certificate.

The DHSMV may cancel any pending application or certificate of title if the DHSMV determines that any title or registration fee or sales tax pertaining to such registration has not been paid, upon reasonable notice. The DHSMV may not issue a certificate of title to any applicant for any vessel that has been deemed derelict by a law enforcement officer under s. 823.11, F.S. 24

Effect of Proposed Changes

Section 12 substantially amends s. 328.09, F.S., providing the DHSMV with duties relating to the creation, issuance, refusal to issue, or cancellation of a certificate of title. Unless an

---

24 Section 328.09, F.S.
application for a certificate of title is rejected, the DHSMV must create a certificate for the vessel no later than 30 days after delivery of the application to the DHSMV. If the DHSMV creates electronic certificates of title, then the DHSMV must create an electronic certificate of title unless the owner requests a written certificate.

The DHSMV may reject an application for a certificate of title only if:
- The application is not in compliance;
- The application does not contain sufficient documentation for the DHSMV to determine whether the applicant is entitled to a certificate;
- There is a reasonable basis for concluding that the application is fraudulent or issuance of a certificate would facilitate a fraudulent or illegal act; or
- The application does not comply with Florida law.

The DHSMV must reject an application for a certificate of title for a vessel that is a documented vessel or a foreign-documented vessel.

The DHSMV may cancel a created certificate of title only if the DHSMV:
- Could have rejected the application for the certificate;
- Is required to cancel the certificate under another provision of part I of ch. 328, F.S.; or
- Receives satisfactory evidence that the vessel is a documented vessel or a foreign-documented vessel.

Lastly, a DHSMV decision to reject an application for a certificate of title under this new section of law is subject to an administrative hearing during which the owner and any other interested person may present evidence in support of or opposition to the rejection of application for a certificate of title or the cancellation of a certificate of title.

**Effect of Missing or Incorrect Information**

**Effect of Proposed Changes**

Section 13 creates s. 328.101, F.S., specifying that a certificate of title is effective even if it contains unintended scrivener’s errors or does not contain required information if the DHSMV determines the missing information to be inconsequential to the issuance of a certificate of title. This also applies to other records required or authorized by part I of ch. 328, F.S.

**Duplicate Certificate of Title**

**Present Situation**

The DHSMV may issue a duplicate certificate of title if it receives an application from the person entitled to hold such a certificate and if the DHSMV is satisfied that the original certificate has been lost, destroyed, or mutilated. The fee for issuing a duplicate certificate is $6 and additional $5 for expedited service to issue a duplicate certificate of title. The expedited service must issue the certificate within 5 working days after receipt of a proper application or the $5 additional fee will be refunded upon written request of the applicant.

---

25 Section 328.11(1) and (2), F.S.
If the certificate is lost in transit and is not delivered to the addressee, the owner of the vessel or the holder of a lien may, within 180 days after the date of issuance of the title, apply to the DHSMV for reissuance of the certificate of title. An additional fee may not be charged by the DHSMV for this reissuance. If the address shown on the application is different from the address on record with the department for the applicant, then the DHSMV will verify that the certificate is delivered to an authorized receiver.26

**Effect of Proposed Changes**

**Section 14** amends s. 328.11, F.S., to provide additional requirements for obtaining a duplicate certificate of title. The bill also allows the owner of record to apply for a duplicate certificate of title if the document is stolen or otherwise becomes unavailable or illegible.

The secured party, or if there is no secured party indicated in the DHSMV files then the owner of record, may apply for a duplicate certificate of title and, by furnishing information satisfactory to the DHSMV, obtain a duplicate certificate in the name of the owner of record.

An applicant for a duplicate certificate of title must sign the application and comply with all requirements for title application. The application must include the existing certificate unless the certificate is lost, stolen, mutilated, destroyed, or otherwise unavailable.

The bill provides that a duplicate certificate of title created by the DHSMV must comply with all the requirements for the contents of a certificate of title and must state on its face that it is a “duplicate.” If a person receiving a duplicate certificate of title finds the original certificate, the person must destroy the original certificate.

The bill does not change the fees for a duplicate certificate of title or for expedited service.

Lastly, the bill repeals the provision allowing an applicant for duplicate certificate of title to apply for reissuance of the certificate if the applicant has not received the duplicate title from the DHSMV within 180 days after the date of issuance of the certificate.

**Perfection of Security Interest**

**Effect of Proposed Changes**

**Section 15** creates s. 328.12, F.S., providing requirements for the determination and perfection of a security interest in a vessel. A security interest in a vessel can be perfected by delivery of an application for a certificate of title to the DHSMV that identifies the secured party and otherwise complies with all application requirements.27 An application identifies a person as a secured party if a person named as an owner, lessor, consignor, or bailor in an application for a certificate of title has a security interest. The bill includes the Department of Revenue as a secured party when collecting unpaid child support.

---

26 Section 328.11(3) and (4), F.S.
27 The security interest may also be perfected upon attachment under s. 679.2031, F.S.
The bill provides that if the DHSMV has created a certificate of title for a vessel, a security interest in the vessel may be perfected by delivery to the DHSMV of an application to have the security interest added to the certificate. The application must be signed by an owner of the vessel or by the secured party and must include:

- The name of the owner of record;
- The name and mailing address of the secured party;
- The hull identification number for the vessel; and
- The written certificate, if the DHSMV created a written certificate of title for the vessel.

On delivery of an application and payment of fees, the DHSMV must create a new certificate of title and deliver the new certificate or a record evidencing an electronic certificate. The DHSMV must maintain its files the date and time of delivery of the application.

If a secured party assigns a perfected security interest in a vessel, the receipt by the DHSMV of a statement providing the name of the assignee as secured party is not required to continue the perfected status of the security interest. A purchaser of a vessel subject to a security interest who obtains a release from the secured party takes free of the security interest and of the rights of a transferee, unless the transfer is indicated in the files of the DHSMV or on the certificate.

Section 328.12, F.S., expressly does not apply to a security interest:

- Created in a vessel by a person during any period in which the vessel is inventory held for sale or lease by the person or is leased by the person as lessor if the person is in the business of selling vessels;
- In a barge for which no application for a certificate of title has been delivered to the DHSMV; or
- In a vessel before delivery if the vessel is under construction, or completed, pursuant to a contract and for which no application for a certificate has been delivered to the DHSMV.

However, the new section does apply if a certificate of documentation for a documented vessel is deleted or canceled. If such a security interest was valid immediately before the deletion or cancellation, then the security interest remains perfected until the earlier of 4 month after cancellation of the certificate or becomes perfected under this law.

The bill also contains provisions specifying when perfected security interests attach, depending on the law under which the security interest arises.
Termination Statement of a Security Interest

Effect of Proposed Changes

Section 16 creates s. 328.125, F.S., providing requirements for the delivery of a statement of the termination of a security interest. A secured party must deliver a termination statement to the DHSMV and, on the debtor's request, to the debtor, by the earlier of:

- Twenty days after the secured party receives a signed demand from an owner for a termination statement if there is no obligation secured by the vessel and no commitment to make an advance, incur an obligation, or otherwise give value secured by the vessel; or
- If the vessel is consumer goods, 30 days after there is no obligation secured by the vessel under the same conditions.

If a written certificate of title has been created and delivered to a secured party and a termination statement is required, the secured party must deliver the certificate to the debtor or to the DHSMV with the termination statement.

The security interest ceases to be perfected upon delivery to the DHSMV of a termination statement authorized by the secured party. If the security interest is indicated on the certificate of title, the DHSMV must create and deliver a new certificate. Additionally, the DHSMV must maintain in its files the date and time of delivery of the termination statement to the DHSMV.

Lastly, the bill provides that a secured party that fails to comply with the new section of law is liable for any loss that the secured party had reason to know might result from its lack of compliance and for the cost of an application for certificate of title.

Rights of a Purchaser Other Than Secured Party

Effect of Proposed Changes

Section 17, creates s. 328.14, F.S., providing rights of a purchaser of a vessel who is not a secured party. A buyer in the ordinary course of business is afforded protection under state law even if an existing certificate of title was not signed and delivered to the buyer or a new certificate listing the buyer as owner of record was not created.

Rights of Secured Party

Effect of Proposed Changes

Section 18 creates s. 328.145, F.S., providing rights of a secured party. The effect of a security interest on the rights of a purchaser or creditor, including a lien creditor, are governed by the Uniform Commercial Code.

If a security interest in a vessel is perfected and the DHSMV creates a certificate of title that does not indicate that the vessel is subject to, or may be subject to, the security interest:

- A buyer of the vessel takes free of the security interest if the buyer, without knowledge of the security interest, acts in good faith and pays for and receives possession of the vessel; and
• The security interest is subordinate to a conflicting security interest in the vessel that is perfected after creation of the certificate and without the conflicting secured party's knowledge of the security interest.

Notice of Lien on Vessel and Recording

Present Situation
A lien for purchase money or as security for a debt in the form of a retain-title contract, conditional bill of sale, chattel mortgage, or otherwise on a vessel, is not enforceable unless a sworn notice of such lien is recorded. The lien certificate must contain the following information:
• Name and address of the registered owner;
• Date of lien;
• Description of the vessel, including make, type, motor, and serial number; and
• Name and address of lienholder.

The lien shall be recorded by the DHSMV.\(^{28}\)

The DHSMV will not record a lien unless the official certificate of title is furnished with the notice of lien. Once the lien is recorded, the certificate of title will be held by the first lien holder until the lien is paid in full.\(^{29}\)

When a vessel is registered in the names of two or more people by the use of the word “or” each person has the right to place a lien or notice of lien with only his or her signature. When the vessel is registered by the use of the word “and,” the signature of each co-owner is required in order to place a lien on the vessel.\(^{30}\)

If the owner of the vessel or the director of the state child support enforcement program desires to place a second or subsequent lien against the vessel when the title certificate is in the possession of the first lienholder, the owner must send a written request to the first lienholder by certified mail and the first lienholder must forward the certificate to the DHSMV for endorsement.\(^{31}\)

Once the lien is paid in full, the lienholder must provide the owner with a satisfaction of lien, which will be filed with the DHSMV.\(^{32}\) The DHSMV may promulgate rules to substitute the formal satisfaction of liens.\(^{33}\)

The DHSMV may collect a fee of $1 for the recording of each notice of lien, but no fee may be collected for recording the satisfaction of a lien. The revenues from this fee are deposited into the Marine Resources Conservation Trust Fund.\(^{34}\)

\(^{28}\) Section 328.15(1), F.S.
\(^{29}\) Section 328.15(2)(a), F.S.
\(^{30}\) Section 328.15(2)(b), F.S.
\(^{31}\) Section 328.15(2)(c), F.S.
\(^{32}\) Section 328.15(3), F.S.
\(^{33}\) Section 328.15(4), F.S.
\(^{34}\) Section 328.15(6), F.S.
A lienholder holding a satisfied lien who fails to issue a satisfaction of the lien within 30 days of satisfaction will be held liable for all costs, damages, and expenses of the registered owner of the vessel. If the certificate of title shows a subsequent lien that has not been discharged, an executed satisfaction of the first lien must be delivered by the lienholder to the owner and the certificate of title showing satisfaction of the first lien must be forwarded by the lienholder to the DHSMV within 10 days after satisfaction of the lien. A lienholder who is noncompliant with the 10-day time period commits a misdemeanor of the second degree. If the original certificate of title cannot be returned to the DHSMV by the lienholder, and all liens have been satisfied, upon application by the owner, a duplicate copy of the certificate of title without lien will be issued to the owner. If the original lienholder assigns his or her lien to another person, the new lienholder may have his or her name substituted as lienholder.

**Effect of Proposed Changes**

**Section 19** amends s. 328.15, F.S., to repeal provisions, some of which are modified in new statutes created by the bill, including the following:

- Requirements relating to enforceable liens and the content of lien certificates;
- Direction to the DHSMV regarding entry of a lien in its records;
- Provisions specifying the result of vessel registration in the names of two or more persons as co-owners using the conjunctives “or” and “and.”
- The process for second or subsequent liens placed on a vessel by the owner or by the state child support enforcement program.
- The $1 fee to the DHSMV for recording each notice of lien.

The bill sunsets the following provisions of s. 328.15, F.S., on October 1, 2026:

- Authorization of a debtor or registered owner to demand and receive a satisfaction of lien.
- Provisions allowing the DHSMV to adopt rules permitting the use of other methods of lien satisfaction, such as a stamp.
- Assessment of liability for costs and attorney fees for failure to furnish a debtor or registered owner of a vessel a satisfaction of lien and related provisions governing satisfaction of liens.
- Authorization for duplicate certificates of title.
- Misdemeanor penalty for failure to return a certificate of title after demand by the DHSMV or for failure to forward satisfactions of lien after such demand.
- Requirement that the DHSMV use the last known address of record when sending any required notice.
- Provisions for substitution of an original lienholder’s name on the certificate of title by an assignee.

---

35 Section 328.15(7), F.S.
36 Section 328.15(9), F.S. A second degree misdemeanor is punishable by a term of jail up to 60 days and a fine of up to $500. Sections 775.082 and 775.083, F.S.
37 Section 328.15(8), F.S.
38 Section 328.15(11), F.S.
Transfer of Ownership or Termination of Security Interest Without Certain Records

Effect of Proposed Changes

Section 22 creates s. 328.215, F.S., specifying circumstances by which the DHSMV may create a new certificate of title after the receipt of an application for a transfer of ownership or termination of a security interest, without the applicant providing a signed certificate of title or a termination statement.

If the DHSMV receives an application for a new certificate of title unaccompanied by a signed certificate of title or termination statement, the DHSMV may create a new certificate of title if:

- The requirements for application for and information to be included in a certificate of title as well as the requirements for fraud prevention are met.
- The applicant provides an affidavit stating facts showing the applicant is entitled to a transfer of ownership or termination statement.
- The applicant provides the DHSMV with evidence that:
  - Proper notification of the application has been sent to the owner of record and anyone with a security interest indicated in the DHSMV records;
  - At least 45 days have passed since the notification was sent; and
  - The DHSMV has not received an object from the owner or anyone with a security interest.
- The applicant submits any other information required by the DHSMV as evidence of the applicant’s ownership or right to terminate the security interest.
- The DHSMV has no credible information indicating theft, fraud, or an undisclosed or unsatisfied security interest, lien, or other claim to an interest in the vessel.

The DHSMV may indicate in the certificate of title that the certificate was created without submission of a signed certificate or termination statement. If after one year, the DHSMV has not received any credible information indicating theft, fraud, unsatisfied security interest, or lien on the vessel, the DHSMV must remove the indication from the certificate if requested by the applicant.

The bill authorizes the DHSMV to require the applicant to post a reasonable bond or provide an equivalent source of indemnity or security to receive a certificate of title under this new section. Unless the DHSMV receives a claim for indemnity within one year after creation of the certificate of title, the DHSMV must release any bond, indemnity, or other security at the request of the applicant.

The DHSMV is not liable to a person or entity for creating a certificate under this new section when the DHSMV issues the certificate in good faith based on the information provided by the applicant. An applicant that submits erroneous or fraudulent information with intent to mislead the DHSMV is subject, in addition to any other criminal or civil penalties provided by law, to the following penalties:

- $5,000 for the first offense,
- $15,000 for a second offense, and
- $25,000 for each subsequent offense.
Transfer of Ownership

Effect of Proposed Changes

Section 23 creates s. 328.22, F.S., providing requirements for the transfer of ownership in a vessel:

- If the transferor’s interest is noted on the written certificate, the transferor must promptly sign the certificate and deliver it to the transferee. If the transferor does not have possession of the certificate, the person in possession of the certificate has a duty to facilitate the transfer.
- If the certificate of title is an electronic certificate, the transferor must promptly sign by hand, or electronically if available, and deliver to the transferee a record evidencing the transfer of ownership to the transferee.
- The transferee has a right to enforce, by specific performance, the transfer of the certificate of title from the transferor.

Failure to comply with the above requirements does not render the transfer of ownership of a vessel ineffective between the parties; however, the transfer may not be effective against another person claiming an interest in the vessel. A transferor who complies with the above requirements is not liable as owner of the vessel for an event occurring after the transfer.

Transfer of Ownership by Secured Party

Effect of Proposed Changes

Section 24 creates s. 328.23, F.S., providing requirements for the transfer of ownership based upon a secured party’s transfer statement.

A “secured party’s transfer statement” is defined as a record signed by the secured party of record stating:

- That there has been a default on an obligation secured by the vessel;
- That the secured party of record is exercising or has exercised post-default remedies with respect to the vessel;
- That by reason of the exercise, the secured party of record has the right to transfer the ownership interest of an owner;
- The name and last known mailing address of the owner of record and the secured party of record;
- The name of the transferee;
- Other information required in the application for certificate of title; and
- One of the following:
  - That the certificate of title is an electronic certificate;
  - That the secured party does not have possession of the written certificate of title created in the name of the owner of record; or
  - That the secured party is delivering the written certificate of title to the DHSMV with the secured party’s transfer statement.
Unless the DHSMV has cause to reject a secured party’s transfer statement, within 30 days after delivery of the statement and payment of all fees and taxes the department must:

- Accept the statement;
- Amend its files to reflect the transfer; and
- If the name of the owner whose interest is being transferred is indicated on the certificate:
  - Cancel the certificate even if the certificate has not been delivered to the DHSMV;
  - Create a new certificate indicating the transferee as owner; and
  - Deliver the new certificate or a record evidencing an electronic certificate.

The secured party still must meet the duties under the Uniform Commercial Code for secured transactions.

**Transfer by Operation of Law**

**Effect of Proposed Changes**

**Section 25** creates s. 328.24, F.S., providing requirements for a transfer of ownership by operation of law.

“By operation of law” is defined as pursuant to a law or judicial order affecting ownership of a vessel:

- Because of death, divorce, or other family law proceeding, merger, consolidation, dissolution, or bankruptcy;
- Through the exercise of the rights of a lien creditor or a person having a lien created by statute or rule of law; or
- Through other legal process.

A transfer-by-law statement must contain:

- The name and last known mailing address of the owner of record and the transferee;
- Other information required in the application for certificate of title;
- Documentation sufficient to establish the transferee’s ownership interest or right to acquire the ownership interest;
- A statement that:
  - The certificate of title is an electronic certificate of title;
  - The transferee does not have possession of the written certificate of title created in the name of the owner of record; or
  - The transferee is delivering the written certificate to the DHSMV with the transfer-by-law statement; and
- Evidence that notification of the transfer and the intent to file the transfer-by-law statement has been sent to all persons indicated in the DHSMV’s files as having an interest, including a security interest, in the vessel (for transfer other than because of death, divorce, family law proceeding, merger, consolidation, dissolution, or bankruptcy).
Unless the DHSMV has cause to reject the transfer, within 30 days after delivery of the statement and payment of all fees and taxes the department must:

- Accept the statement;
- Amend its files to reflect the transfer; and
- If the name of the owner whose interest is being transferred is indicated on the certificate:
  - Cancel the certificate even if the certificate has not been delivered to the DHSMV;
  - Create a new certificate indicating the transferee as owner;
  - Indicate on the new certificate any security interest indicated on the canceled certificate, unless a court order provides otherwise; and
  - Deliver the new certificate or a record evidencing an electronic certificate.

Transfer-by-law does not apply to defaults under the Uniform Commercial Code.

**Supplemental Principles of Law and Equity**

**Section 26** creates s. 328.25, F.S., to provide that the principles of law and equity supplement the provisions of the bill.

**Rulemaking**

**Section 27** creates s. 328.41, F.S., authorizing the DHSMV to adopt rules to implement part I of ch. 328, F.S.

**“Grandfather” Provisions**

**Sections 31** creates an undesignated section of law providing that the rights, duties, and interests flowing from a transaction, certificate of title, or record relating to a vessel which was validly entered into or created before the effective date of the bill, July 1, 2023, remains valid.

The bill does not affect an action or proceeding commenced before July 1, 2023.

A security interest that is enforceable immediately before July 1, 2023, that would have priority over the rights of a lien creditor at that time, is deemed a perfected security interest. A security interest perfected immediately before the same date remains perfected until the earlier of:

- The time perfection would have ceased under the law under which the security interest was perfected; or
- July 1, 2026.

The bill does not affect the priority of a security interest in a vessel if immediately before July 1, 2023, the security interest is enforceable and perfected, and that priority is established.

**Retroactive Application**

**Section 31** creates an undesignated section of law, subject to the provisions relating to transfer of ownership by law described above, applying the bill to any transaction, certificate of title, or
record relating to a vessel, even if the transaction, certificate, or record was entered into or created before July 1, 2023.

Technical Revisions

Sections 20, 21, 28, 29, and 30 of the bill amend ss. 328.16, 328.165, 409.2575, 705.103, and 721.08, F.S., conforming provisions and cross-references to changes made by the bill.

Effective Date

Section 32 provides that the bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill requires owners of vessels that become hull-damaged and insurers that transfer ownership in hull-damaged vessels to apply to the DHSMV for a new certificate of title that includes the title brand, “Hull Damaged.” The existing fee for issuance of each vessel certificate of title is $5.25, of which $3.75 is retained by the tax collector. An owner transferring ownership of a vessel has the option to simply indicate on the certificate at the time of transfer that the hull is damaged and could avoid paying the fee for a new certificate of title.

—

However, if the vessel was previously registered outside the state, the DHSMV is directed to charge an additional fee of $4. Section 328.03(6) and (7), F.S.
While the bill does not impose any new fee, the bill may result in an existing fee applying to a new transaction (application for a branded title). Article VII, s. 19 of the Florida Constitution requires the imposition, authorization, or raising of a state tax or fee be contained in a separate bill that contains no other subject and be approved by two-thirds of the membership of each house of the Legislature. As such, Article VII, s. 19 of the Florida Constitution may apply if the provisions in the bill relating to applications for new branded title certificates are interpreted to be new transactions requiring payment of an existing title fee.

The tax collector offices could see an increase in vessel certificate of title applications and application fees. However, the number of additional transactions is unknown.

B. Private Sector Impact:

The bill may improve the integrity of the vessel titling process by requiring a more detailed description of the vessel on the title and requiring the DHSMV to maintain the information contained in certificates of title and title applications.

C. Government Sector Impact:

All funds collected by the DHSMV under ch. 328, F.S., are deposited into the Marine Resources Conservation Trust Fund of the Fish and Wildlife Conservation Commission.\footnote{Sections 328.20 and 379.208, F.S.}

The DHSMV estimates an insignificant, but negative impact on the Marine Resource Conservation Trust Fund due to the elimination of the $1 recording of lien fee.\footnote{The DHSMV collects about $2,300 per year for this fee. Email from DHSMV staff dated April 2, 2019 (On file in the Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee).} In addition, the DHSMV also estimates an insignificant, but positive impact in the Marine Resource Conservation Trust Fund due to the potential increase in the number of transactions related to hull-damaged vessel titling. The number of additional title transactions is unknown.\footnote{See email from DHSMV staff dated March 18, 2019 (On file in the Senate Infrastructure and Security Committee).}

The bill creates two noncriminal infractions punishable by a civil penalty for failure to provide proper notice of hull damage (s. 328.045(4), F.S.) and for submitting a fraudulent or misleading application for transfer of title or termination of a security interest without certificate the title (s. 328.215(4), F.S.). The first offense is $5,000; the second offense is $15,000; and each subsequent offense is $25,000. These penalties would be remitted by the clerk of court to the Department of Revenue to be deposited into the Marine Resources Conservation Trust Fund for boating safety education purposes. The number of penalties that would be assessed and collected under either provision is indeterminate.

Section 19 of the bill repeals subsection (2) of s. 328.15, F.S., effective July 1, 2023. Paragraph (c) of subsection (2) deals with attachment of child support enforcement liens on vessel titles. Repeal of s. 328.15(2)(c), F.S., could impact the state’s eligibility for funding pursuant to Title IV-D of the Social Security Act because after July 1, 2023,
Florida would no longer have a procedure for filing liens against this type of personal property to collect child support enforcement liens. The state is required to have a procedure for filing liens against all personal property to collect unpaid child support. See Section VII. The Department of Revenue’s Child Support Program’s State Fiscal Year 2017-2018 appropriation for Title IV-D matching funds and federal performance incentives are $156.7 million and $33.5 million respectively. Further, failure to comply with Title IV-D requirements could result in a penalty being assessed to the Title IV-A TANF (Temporary Assistance to Needy Families) grant. For the first year of noncompliance, the penalty is 1-2 percent of TANF funds; for the second year, the penalty is 2-3 percent of TANF funds; and for subsequent years, the penalty is 3-5 percent of the amounts otherwise payable to the state. Florida’s TANF grant is $559.1 million for Federal Fiscal Year 2017-2018. The penalty would be applied to all or part of the grant.43

The bill will require the DHSMV to implement changes to vessel titling procedures and databases. However, with a delayed effective date of July 1, 2023, the DHSMV can incorporate the required changes utilizing existing resources.44

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

The bill authorizes the DHSMV to adopt rules to implement part I of ch. 328, F.S.

On lines 898 and 899 of the bill, the provision seems to imply that the DHSMV has the *option* of creating electronic certificates of title. The bill states “if the department creates electronic certificates of title...” Section 328.15, F.S., requires the DHSMV to establish and administer an electronic titling program.

Section 19 of the bill amends s. 328.15, F.S., F.S., deleting current subsections (1), (2), and (6) and re-designating the remaining subsections. A new subsection (9) included in the revisions to s. 328.15, F.S., provides that re-designated subsections (1), (2), and (4)-(8) expire on October 1, 2026. The remaining provision requires the DHSMV to adopt rules to administer “this section,” including rules about notarization of satisfaction of liens and forms; allow the DHSMV to provide copies of satisfactions of liens for $1, which are admissible in court; and directs the DHSMV to establish and administer an electronic titling program.

43 Email from the Department of Revenue to Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee staff, CS/SB 676, April 8, 2019. (On files in the Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee.)

44 Id.
VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 328.01, 328.03, 328.09, 328.11, 328.15, 328.16, 328.165, 409.2575, 705.103, and 721.08.

This bill creates the following sections of the Florida Statutes: 328.001, 328.0015, 328.015, 328.02, 328.04, 328.045, 328.055, 328.06, 328.065, 328.101, 328.12, 328.125, 328.14, 328.145, 328.215, 328.22, 328.23, 328.24, 328.25, and 328.41.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on April 9, 2019:
The committee substitute provides that for the purpose of perfecting a security interest, the Department of Revenue shall be treated as a secured party when collecting unpaid child support.

CS by Infrastructure and Security on March 20, 2019:
The committee substitute:

- Increases the penalties for an owner or insurer who fails to comply with the required disclosures relating to a hull-damaged-branded certificate of title, or a person who solicits or colludes in such a failure by an owner, or an insurer that fails to apply for a new, branded certificate.
- Expands the DHSMV’s rulemaking authorization from just one section in the bill to the entire part I, ch. 328, F.S.
- Removes provisions relating to creation of a certificate of title for a vessel valued at less than $5,000, and removes a limitation on the bond amount the DHSMV is authorized to require, in connection with an application for transfer of ownership or termination of security interest without a certificate of title.
- Provides the DHSMV is not liable to a person or entity for creating a certificate of title when the certificate is issued in good faith based on information provided by an applicant, and specified penalties for an applicant that submits erroneous or fraudulent information with intent to mislead the DHSMV.
- Provides 30-day periods within which to take specified actions, rather than 20-day periods in the as-filed bill, in various sections of the bill.
- Revises the effective date of the act from October 1, 2019, to July 1, 2023.
- Delays the expiration of the specified subsections of s. 328.15, F.S., until October 1, 2026.
- Makes numerous non-substantive editorial revisions.

B. Amendments:

None.
This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
Appropriations Subcommittee on Transportation, Tourism, and Economic Development (Hooper) recommended the following:

**Senate Amendment**

Between lines 1073 and 1074

insert:

(12) For purposes of this section and this part, the Department of Revenue shall be treated as a secured party when collecting unpaid support.
A bill to be entitled
An act relating to certificates of title for vessels;
creating s. 328.001, F.S.; providing a short title;
creating s. 328.0015, F.S.; providing definitions;
amending s. 328.01, F.S.; revising requirements for
application for, and information to be included in, a
certificate of title for a vessel; creating s. 328.015, F.S.;
requiring the Department of Highway Safety and Motor Vehicles to retain certain
information relating to ownership and titling of
vessels; requiring the department to furnish certain
information upon request; creating s. 328.02, F.S.;
providing that the law of the state under which a
vessel’s certificate of title is covered governs all
issues relating to a certificate of title; specifying
when a vessel becomes covered by such certificate;
amending s. 328.03, F.S.; requiring a vessel owner to
deliver an application for certificate of title to the
department by a specified time; revising circumstances
under which a vessel must be titled by this state;
providing requirements for issuing, transferring, or
renewing the number of an undocumented vessel issued
under certain federal provisions; deleting provisions
relating to operation, use, or storage of a vessel;
deleting provisions relating to selling, assigning, or
transferring a vessel; specifying that a certificate
of title is prima facie evidence of the accuracy of
the information in the record that constitutes the
certificate; creating s. 328.04, F.S.; providing
requirements for the contents of a certificate of
title; creating s. 328.045, F.S.; providing
responsibilities of an owner and insurer of a hull-
damaged vessel when transferring an ownership interest
in the vessel; requiring the department to create a
new certificate indicating such damage; providing
civil penalties; creating s. 328.055, F.S.; requiring
the department to maintain certain information in its
files and to provide certain information to
governmental entities; specifying that certain
information is a public record; creating s. 328.06,
F.S.; providing responsibilities of the department
when creating a certificate of title; creating s. 328.065, F.S.; specifying effect of possession of a
certificate of title; providing construction; amending
s. 328.09, F.S.; providing duties of the department
relating to creation, issuance, refusal to issue, or
cancellation of a certificate of title; providing for
a hearing; creating s. 328.101, F.S.; specifying that
a certificate of title and certain other records are
effective despite missing or incorrect information;
amending s. 328.11, F.S.; providing requirements for
obtaining a duplicate certificate of title; creating
s. 328.12, F.S.; providing requirements for
determination and perfection of a security interest in
a vessel; providing applicability; creating s. 328.125, F.S.; providing requirements for the delivery
of a statement of termination of a security interest;
providing duties of the department; providing...
Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 328.001, Florida Statutes, is created to read:

328.001 Short title.—This part may be cited as the "Uniform Certificate of Title for Vessels Act."

Section 2. Section 328.0015, Florida Statutes, is created to read:

328.0015 Definitions.—

(1) As used in this part, the term:

(a) "Barge" means a vessel that is not self-propelled or fitted for propulsion by sail, paddle, oar, or a similar device.

(b) "Builder’s certificate" means a certificate of the facts of build of a vessel described in 46 C.F.R. s. 67.99.
(c) "Buyer" means a person who buys or contracts to buy a vessel.

(d) "Cancel," with respect to a certificate of title, means to make the certificate ineffective.

(e) "Certificate of origin" means a record created by a manufacturer or an importer as the manufacturer’s or importer’s proof of identity of a vessel. The term includes a manufacturer’s certificate of statement of origin and an importer’s certificate or statement of origin. The term does not include a builder’s certificate.

(f) “Certificate of title” means a record, created by the department or by a governmental agency of another jurisdiction under the law of that jurisdiction, that is designated as a certificate of title by the department or agency and is evidence of ownership of a vessel.

(g) "Dealer" means a person, including a manufacturer, in the business of selling vessels.

(h) "Department" means the Department of Highway Safety and Motor Vehicles.

(i) "Documented vessel" means a vessel covered by a certificate of documentation issued pursuant to 46 U.S.C. s. 12105. The term does not include a foreign-documented vessel.

(j) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(k) "Electronic certificate of title" means a certificate of title consisting of information that is stored solely in an electronic medium and is retrievable in perceivable form.

(l) "Foreign-documented vessel" means a vessel the ownership of which is recorded in a registry maintained by a country other than the United States which identifies each person who has an ownership interest in the vessel and includes a unique alphanumeric designation for the vessel.

(m) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(n) "Hull damaged" means compromised with respect to the integrity of a vessel’s hull by a collision, allision, lightning strike, fire, explosion, running aground, or similar occurrence, or the sinking of a vessel in a manner that creates a significant risk to the integrity of the vessel’s hull.

(o) "Hull identification number" means the alphanumeric designation assigned to a vessel pursuant to 33 C.F.R. part 181.

(p) “Lien creditor,” with respect to a vessel, means:

1. A creditor that has acquired a lien on the vessel by attachment, levy, or the like;

2. An assignee for benefit of creditors from the time of assignment;

3. A trustee in bankruptcy from the date of the filing of the petition; or

4. A receiver in equity from the time of appointment.

(q) "Owner" means a person who has legal title to a vessel.

(r) "Owner of record" means the owner indicated in the files of the department or, if the files indicate more than one owner, the one first indicated.

(s) "Person" means an individual, a corporation, a business trust, an estate, a trust, a statutory trust, a partnership, a limited liability company, an association, a joint venture, a public corporation, a government or governmental subdivision, an
who holds a security interest arising under s. 672.401, or it is acquired by a treaty or agreement, or it is acquired by a treaty or agreement. 

3. Who is a consignor as defined under chapter 679; or 

Make or adopt a tangible symbol; or 

In whose favor a security interest is created or 

Record an instrumentality, or any other legal or commercial 

entity. 

(i) "Purchase" means to take by sale, lease, mortgage, 
pledge, consensual lien, security interest, gift, or any other 
voluntary transaction that creates an interest in a vessel. 

(u) "Purchaser" means a person who takes by purchase. 

(v) "Record" means information that is inscribed on a 
tangible medium or that is stored in an electronic or other 
medium and is retrievable in perceivable form. 

(w) "Secured party," with respect to a vessel, means a 

person: 

1. In whose favor a security interest is created or 

provided for under a security agreement, regardless of whether 

any obligation to be secured is outstanding; 

2. Who is a consignor as defined under chapter 679; or 

3. Who holds a security interest arising under s. 672.401, 

s. 672.505, s. 672.711(3), or s. 680.508(5). 

(x) "Secured party of record" means the secured party whose 

name is indicated as the name of the secured party in the files 
of the department or, if the files indicate more than one 

secured party, the one first indicated. 

(y) "Security interest" means an interest in a vessel which 

securities payment or performance of an obligation if the interest 
is created by contract or arises under s. 672.401, s. 672.505, 
s. 672.711(3), or s. 680.508(5). The term includes any interest 
of a consignor in a vessel in a transaction that is subject to 
chapter 679. The term does not include the special property 
interest of a buyer of a vessel on identification of that vessel 
to a contract for sale under s. 672.501, but a buyer also may 

acquire a security interest by complying with chapter 679. 

Except as otherwise provided in s. 672.505, the right of a 
seller or lessor of a vessel under chapter 672 or chapter 680 to 
retain or acquire possession of the vessel is not a security 
interest, but a seller or lessor also may acquire a security 
interest by complying with chapter 679. The retention or 
reservation of title by a seller of a vessel notwithstanding 
shipment or delivery to the buyer under s. 672.401 is limited in 
effect to a reservation of a security interest. Whether a 
transaction in the form of a lease creates a security interest 
is determined as provided in part II of chapter 671. 

(z) "Sign" means, with present intent to authenticate or 

adopt a record, to: 

1. Make or adopt a tangible symbol; or 

2. Attach to or logically associate with the record an 
electronic symbol, sound, or process. 

(aa) "State" means a state of the United States, the 
District of Columbia, Puerto Rico, the United States Virgin 
Islands, or any territory or insular possession subject to the 
jurisdiction of the United States. 

(bb) "State of principal use" means the state on the waters 
of which a vessel is or will be used, operated, navigated, or 
employed more than on the waters of any other state during a 
calendar year. 

(cc) "Title brand" means a designation of previous damage, 
use, or condition that must be indicated on a certificate of 
title. 

(dd) "Transfer of ownership" means a voluntary or 
involuntary conveyance of an interest in a vessel.
"Vessel" means a watercraft used or capable of being used as a means of transportation on water, except:

1. A seaplane;

2. An amphibious vehicle for which a certificate of title is issued pursuant to chapter 319 or a similar statute of another state;

3. A watercraft less than 16 feet in length and propelled solely by sail, paddle, oar, or an engine of less than 10 horsepower;

4. A watercraft that operates only on a permanently fixed, manufactured course and the movement of which is restricted to or guided by means of a mechanical device to which the watercraft is attached or by which the watercraft is controlled;

5. A stationary floating structure that:
   a. Does not have and is not designed to have a mode of propulsion of its own;
   b. Is dependent for utilities upon a continuous utility hookup to a source originating on shore; and
   c. Has a permanent, continuous hookup to a shoreside sewage system;

6. Watercraft owned by the United States, a state, or a foreign government or a political subdivision of any of them; and

7. A watercraft used solely as a lifeboat on another watercraft.

"Vessel number" means the alphanumeric designation for a vessel issued pursuant to 46 U.S.C. s. 12301.

"Written certificate of title" means a certificate of title consisting of information inscribed on a tangible medium.

Section 3. Section 328.01, Florida Statutes, is amended to read:

328.01 Application for certificate of title.—

(1) The owner of a vessel which is required to be titled shall apply to the county tax collector for a certificate of title. Except as otherwise provided in ss. 328.045, 328.11, 328.12, 328.216, 328.23, and 328.24, only an owner may apply for a certificate of title.

(2) An application for a certificate of title must be signed by the applicant and contain:

(a) The applicant’s name, the street address of the
applicant’s principal residence, and, if different, the
applicant’s mailing address;

(b) The name and mailing address of each other owner of the
vessel;

(c) The hull identification number for the vessel or, if
none, an application for the issuance of a hull identification
number for the vessel;

(d) The vessel number for the vessel or, if none is issued
by the department, an application for a vessel number;

(e) A description of the vessel as required by the
department, which must include:

1. The official number for the vessel, if any, assigned by
the United States Coast Guard;

2. The name of the manufacturer, builder, or maker;

3. The model year or the year in which the manufacture or
build of the vessel was completed;

4. The overall length of the vessel;

5. The vessel type;

6. The hull material;

7. The propulsion type;

8. The engine drive type, if any; and

9. The fuel type, if any;

(f) An indication of all security interests in the vessel
known to the applicant and the name and mailing address of each
secured party;

(g) A statement that the vessel is not a documented vessel
or a foreign-documented vessel;

(h) Any title brand known to the applicant and, if known,
the jurisdiction under whose law the title brand was created;

(i) If the applicant knows that the vessel is hull damaged,
a statement that the vessel is hull damaged;

(j) If the application is made in connection with a
transfer of ownership, the transferee’s name, street address,
and, if different, mailing address, the sales price, if any, and
the date of the transfer; and

(k) If the vessel was previously registered or titled in
another jurisdiction, a statement identifying each jurisdiction
known to the applicant in which the vessel was registered or
titled.

3. In addition to the information required by subsection
(2), an application for a certificate of title may contain an
electronic address of the owner, transferor, or secured party.

4. Except as otherwise provided in s. 328.11, s. 328.215,
s. 328.23, or s. 328.24, an application for a certificate of
title must be accompanied by:

(a) A certificate of title signed by the owner shown on the
certificate and which:

1. Identifies the applicant as the owner of the vessel; or

2. Is accompanied by a record that identifies the applicant
as the owner; or

(b) If there is no certificate of title:

1. If the vessel was a documented vessel, a record issued
by the United States Coast Guard which shows the vessel is no
longer a documented vessel and identifies the applicant as the
owner;

2. If the vessel was a foreign-documented vessel, a record
issued by the foreign country which shows the vessel is no
longer a foreign-documented vessel and identifies the applicant
as the owner; or
3. In all other cases, a certificate of origin, bill of sale, or other record that to the satisfaction of the department identifies the applicant as the owner.

(5) A record submitted in connection with an application is part of the application. The department shall maintain the record in its files.

(6) The department may require that an application for a certificate of title be accompanied by payment or evidence of payment of all fees and taxes payable by the applicant under the laws of this state, other than this part, in connection with the application or the acquisition or use of the vessel. The application shall include the true name of the owner, the residence or business address of the owner, and the complete description of the vessel, including the hull identification number, except that an application for a certificate of title for a homemade vessel shall state all the foregoing information except the hull identification number.

(7)(a) The application shall be signed by the owner and shall be accompanied by personal or business identification and the prescribed fee. An individual applicant must provide a valid driver license or identification card issued by this state or another state or a valid passport. A business applicant must provide a federal employer identification number, if applicable, verification that the business is authorized to conduct business in the state, or a Florida city or county business license or number. 

(b) The owner of an undocumented vessel that is exempt from titling may apply to the county tax collector for a certificate of title by filing an application accompanied by the prescribed fee.

(2)(a) The owner of a manufactured vessel that was initially sold in this state for which vessel an application for an initial title is made shall establish proof of ownership by submitting with the application the original copy of the manufacturer’s statement of origin for that vessel.

(b) The owner of a manufactured vessel that was initially sold in another state or country for which vessel an application for an initial title is made shall establish proof of ownership by submitting with the application:

1. The original copy of the manufacturer’s statement of origin if the vessel was initially sold or manufactured in a state or country requiring the issuance of such a statement or the original copy of the executed bill of sale if the vessel was initially sold or manufactured in a state or country not requiring the issuance of a manufacturer’s statement of origin, and

2. The most recent certificate of registration for the vessel, if such a certificate was issued.

(c) In making application for an initial title, the owner of a homemade vessel shall establish proof of ownership by submitting with the application:

1. A notarized statement of the builder or its equivalent, whichever is acceptable to the Department of Highway Safety and Motor Vehicles, if the vessel is less than 16 feet in length; or

2. A certificate of inspection from the Fish and Wildlife Conservation Commission and a notarized statement of the builder or its equivalent, whichever is acceptable to the Department of...
Highway Safety and Motor Vehicles, if the vessel is 16 feet or more in length.

(d) The owner of a nontitled vessel registered or previously registered in another state or country for which an application for title is made in this state shall establish proof of ownership by surrendering, with the submission of the application, the original copy of the most current certificate of registration issued by the other state or country.

(e) The owner of a vessel titled in another state or country for which an application for title is made in this state shall not be issued a title unless and until all existing titles to the vessel are surrendered to the Department of Highway Safety and Motor Vehicles. The department shall retain the evidence of title which is presented by the applicant and on the basis of which the certificate of title is issued. The department shall use reasonable diligence in ascertaining whether the facts in the application are true; and, if satisfied that the applicant is the owner of the vessel and that the application is in the proper form, the department shall issue a certificate of title.

(f) In making application for the titling of a vessel previously documented by the Federal Government, the current owner shall establish proof of ownership by submitting with the application a copy of the canceled documentation papers or a properly executed release from documentation certificate provided by the United States Coast Guard. In the event such documentation papers or certification are in the name of a person other than the current owner, the current owner shall provide the original copy of all subsequently executed bills of sale applicable to the vessel.

(1) In making application for a title upon transfer of ownership of a vessel, the new owner shall surrender to the Department of Highway Safety and Motor Vehicles the last title document issued for that vessel. The document shall be properly executed. Proper execution includes, but is not limited to, the previous owner’s signature and certification that the vessel to be transferred is debt-free or is subject to a lien. If a lien exists, the previous owner shall furnish the new owner, or forms supplied by the Department of Highway Safety and Motor Vehicles, the name and addresses of all lienholders and the dates of all liens, together with a statement from each lienholder that the lienholder has knowledge of and consents to the transfer of title to the new owner.

(2) If the application for transfer of title is based upon a contractual default, the recorded lienholder shall establish proof of right to ownership by submitting with the application the original certificate of title and a copy of the applicable contract upon which the claim of ownership is made. If the claim is based upon a court order or judgment, a copy of such document shall accompany the application for transfer of title. If, on the basis of departmental records, there appears to be any other lien on the vessel, the certificate of title must contain a statement of such a lien, unless the application for a certificate of title is either accompanied by proper evidence of the satisfaction or extinction of the lien or contains a statement certifying that any lienholder named on the last issued certificate of title has been sent notice by certified mail, at least 5 days before the application was filed, of the
notice is given and no written protest to the department is presented by a subsequent lienholder within 15 days after the date on which the notice was mailed, the certificate of title shall be issued showing no liens. If the former owner or any subsequent lienholder files a written protest under oath within the 15-day period, the department shall not issue the repossessed certificate for 10 days thereafter. If, within the 10-day period, no injunction or other order of a court of competent jurisdiction has been served on the department commanding it not to deliver the certificate, the department shall deliver the repossessed certificate to the applicant, or as is otherwise directed in the application, showing no other liens than those shown in the application.

(c) In making application for transfer of title from a deceased titled owner, the new owner or surviving coowner shall establish proof of ownership by submitting with the application the original certificate of title and the decedent’s probated last will and testament or letters of administration appointing the personal representative of the decedent. In lieu of a probated last will and testament or letters of administration, a copy of the decedent’s death certificate, a copy of the decedent’s last will and testament, and an affidavit by the decedent’s surviving spouse or heirs affirming rights of ownership may be accepted by the department. If the decedent died intestate, a court order awarding the ownership of the vessel or an affidavit by the decedent’s surviving spouse or heirs establishing or releasing all rights of ownership and a copy of the decedent’s death certificate shall be submitted to the department.

The owner or coowner has made proper endorsement and delivery of the certificate of title as provided by this chapter. As used in this subparagraph, the term "proper endorsement" means:

a. The signature of one coowner if the vessel is held in joint tenancy, signified by the vessel’s being registered in the names of two or more persons as coowners in the alternative by the use of the word "or." In a joint tenancy, each coowner is considered to have granted to each of the other coowners the absolute right to dispose of the title and interest in the vessel, and, upon the death of a coowner, the interest of the decedent in the jointly held vessel passes to the surviving coowner or coowners. This sub-subparagraph is applicable even if the coowners are husband and wife; or

b. The signatures of every coowner or of the respective personal representatives of the coowners if the vessel is registered in the names of two or more persons as coowners in

CODING: Words [stricken] are deletions; words [underlined] are additions.
The department shall adopt suitable language that must appear upon the certificate of title to effectuate the manner in which the interest in or title to the vessel is held.

(a) If the owner cannot furnish the department of Highway Safety and Motor Vehicles with all the required ownership documentation, the department may, at its discretion, issue a title conditioned on the owner’s agreement to indemnify the department and its agents and defend the title against all claims or actions arising out of such issuance.

(b) An application for an initial title or a title transfer shall include payment of the applicable state sales tax or proof of payment of such tax.

(c) An application for a title transfer between individuals, which transfer is not exempt from the payment of sales tax, shall include payment of the appropriate sales tax payable on the selling price for the complete vessel rig, which includes the vessel and its motor, trailer, and accessories, if any. If the applicant submits with his or her application an itemized, properly executed bill of sale which separately describes and itemizes the prices paid for each component of the rig, only the vessel and trailer will be subject to the sales tax.

(d) The department of Highway Safety and Motor Vehicles shall prescribe and provide suitable forms for applications, certificates of title, notices of security interests, and other notices and forms necessary to carry out the provisions of this chapter.

Section 4. Section 328.015, Florida Statutes, is created to read:

328.015 Duties and operation of the department.—

(1) The department shall retain the evidence used to establish the accuracy of the information in its files relating to the current ownership of a vessel and the information on the certificate of title.

(2) The department shall retain in its files all information regarding a security interest in a vessel for at least 10 years after the department receives a termination statement regarding the security interest. The information must be accessible by the hull identification number for the vessel and any other methods provided by the department.

(3) If a person submits a record to the department, or submits information that is accepted by the department, and requests an acknowledgment of the filing or submission, the department shall send to the person an acknowledgment showing the hull identification number of the vessel to which the record or submission relates, the information in the filed record or submission, and the date and time the record was received or the submission was accepted. A request under this section must contain the hull identification number and be delivered by means authorized by the department.

(4) The department shall send or otherwise make available in a record the following information to any person who requests it and pays the applicable fee:

(a) Whether the files of the department indicate, as of a date and time specified by the department, but not a date earlier than 3 days before the department received the request,
any certificate of title, security interest, termination statement, or title brand that relates to a vessel:

1. Identified by a hull identification number designated in the request;
2. Identified by a vessel number designated in the request; or
3. Owned by a person designated in the request;
   1. The name and address of any owner as indicated in the files of the department or on the certificate of title;
   2. The name and address of any secured party as indicated in the files of the department or on the certificate, and the effective date of the information; and
3. A copy of any termination statement indicated in the files of the department and the effective date of the termination statement; and
4. With respect to the vessel, a copy of any certificate of origin, secured party transfer statement, transfer-by-law statement under s. 328.24, and other evidence of previous or current transfers of ownership.

5. In responding to a request under this section, the department may provide the requested information in any medium. On request, the department shall send the requested information in a record that is self-authenticating.

Section 5. Section 328.02, Florida Statutes, is created to read:

328.02 Law governing vessel covered by certificate of title.—

(1) The law of the state under which a vessel’s certificate of title is covered governs all issues relating to the certificate from the time the vessel becomes covered by the certificate until the vessel becomes covered by another certificate or becomes a documented vessel, even if no other relationship exists between the state and the vessel or its owner.

(2) A vessel becomes covered by a certificate of title when an application for the certificate and the applicable fee are delivered to the department in accordance with this part or to the governmental agency that creates a certificate in another jurisdiction in accordance with the law of that jurisdiction.

Section 6. Section 328.03, Florida Statutes, is amended to read:

328.03 Certificate of title required.—

(1) Except as otherwise provided in subsections (2) and (3), each vessel that is operated, used, or stored on the waters of this state must be titled by this state pursuant to this part, and the owner of a vessel for which this state is the state of principal use shall deliver to the department an application for a certificate of title for the vessel, with the applicable fee, not later than 30 days after the later of:

(a) The date of a transfer of ownership; or
(b) The date this state becomes the state of principal use.

(2) An application for a certificate of title is not required for chapter, unless it is:

(a) A documented vessel;
(b) A foreign-documented vessel;
(c) A barge;
(d) A vessel before delivery if the vessel is under...
construction or completed pursuant to contract;

(e) A vessel held by a dealer for sale or lease;

(f) A vessel used solely for demonstration, testing, or sales promotional purposes by the manufacturer or dealer;

(g) A vessel operated, used, or stored exclusively on private lakes and ponds;

(h) A vessel owned by the United States Government;

(i) A non-motor-powered vessel less than 16 feet in length;

(j) A federally documented vessel;

(k) A vessel already covered by a registration number in full force and effect which was awarded to it pursuant to a federally approved numbering system of another state or by the United States Coast Guard in a state without a federally approved numbering system, if the vessel is not located in this state for a period in excess of 90 consecutive days; or

(l) A vessel from a country other than the United States temporarily used, operated, or stored on the waters of this state for a period that is not in excess of 90 days;

(m) An amphibious vessel for which a vehicle title is issued by the Department of Highway Safety and Motor Vehicles;

(n) A vessel used solely for demonstration, testing, or sales promotional purposes by the manufacturer or dealer;

(o) A vessel owned and operated by the state or a political subdivision thereof.

(3) The department may not issue, transfer, or renew a number issued to a vessel pursuant to the requirements of 46 U.S.C. s. 12301 unless the department has created a certificate of title for the vessel or an application for a certificate for the vessel and the applicable fee have been delivered to the department.

(2) A person shall not operate, use, or store a vessel for which a certificate of title is required unless the owner has received from the Department of Highway Safety and Motor Vehicles a valid certificate of title for such vessel. However, such vessel may be operated, used, or stored for a period of up to 180 days after the date of application for a certificate of title while the application is pending.

(3) A person shall not sell, assign, or transfer a vessel titled by the state without delivering to the purchaser or transferee a valid certificate of title with an assignment on it showing the transfer of title to the purchaser or transferee. A person shall not purchase or otherwise acquire a vessel required to be titled by the state without obtaining a certificate of title for the vessel in his or her name. The purchaser or transferee shall, within 30 days after a change in vessel ownership, file an application for a title transfer with the county tax collector.

(4) An additional $10 fee shall be charged against the purchaser or transferee if he or she files a title transfer application after the 30-day period. The county tax collector shall be entitled to retain $5 of the additional amount.

(5) A certificate of title is prima facie evidence of the accuracy of the information in the record that constitutes the certificate and of the ownership of the vessel. A certificate of title is good for the life of the vessel so long as the certificate is owned or held by the legal holder. If a titled vessel is destroyed or abandoned, the owner, with the consent of any recorded lienholders, shall, within 30 days after the
(9)(8) The department of Highway Safety and Motor Vehicles shall charge a fee of $4 in addition to that charged in subsection (7) for each initial certificate of title issued for a vessel previously registered outside this state.

(9)(8) The department of Highway Safety and Motor Vehicles shall make regulations necessary and convenient to carry out the provisions of this chapter.

Section 7. Section 328.04, Florida Statutes, is created to read:

328.04 Content of certificate of title.—

(1) A certificate of title must contain:

(a) The date the certificate was created;

(b) The name of the owner of record and, if not all owners listed, an indication that there are additional owners indicated in the files of the department;

(c) The mailing address of the owner of record;

(d) The hull identification number;

(e) The information listed in s. 328.01(2)(e);

(f) Except as otherwise provided in s. 328.12(2), the name and mailing address of the secured party of record, if any, and if not all secured parties are listed, an indication that there are other security interests indicated in the files of the department; and

(g) All title brands indicated in the files of the department covering the vessel, including brands indicated on a certificate created by a governmental agency of another jurisdiction and delivered to the department.

(2) This part does not preclude the department from noting on a certificate of title the name and mailing address of a secured party that is not a secured party of record.

(3) For each title brand indicated on a certificate of title, the certificate must identify the jurisdiction under whose law the title brand was created or the jurisdiction that created the certificate on which the title brand was indicated.
If the meaning of a title brand is not easily ascertainable or cannot be accommodated on the certificate, the certificate may state: “Previously branded in (insert the jurisdiction under whose law the title brand was created or whose certificate of title previously indicated the title brand).”

(4) If the files of the department indicate that a vessel was previously registered or titled in a foreign country, the department shall indicate on the certificate of title that the vessel was registered or titled in that country.

(5) A written certificate of title must contain a form that all owners indicated on the certificate may sign to evidence consent to a transfer of an ownership interest to another person. The form must include a certification, signed under penalty of perjury, that the statements made are true and correct to the best of each owner's knowledge, information, and belief.

(6) A written certificate of title must contain a form for the owner of record to indicate, in connection with a transfer of an ownership interest, that the vessel is hull damaged.

Section 8. Section 328.045, Florida Statutes, is created to read:

328.045 Title brands.—

(1) Unless subsection (3) applies, at or before the time the owner of record transfers an ownership interest in a hull-damaged vessel that is covered by a certificate of title created by the department, if the damage occurred while that person was an owner of the vessel and the person has notice of the damage at the time of the transfer, the owner shall:

(a) Deliver to the department an application for a new certificate that complies with s. 328.01 and includes the title brand designation "Hull Damaged"; or

(b) Indicate on the certificate in the place designated for that purpose that the vessel is hull damaged and deliver the certificate to the transferee.

(2) Not later than 30 days after delivery of the application under paragraph (1)(a) or the certificate of title under paragraph (1)(b), the department shall create a new certificate that indicates that the vessel is branded "Hull Damaged."

(3) Before an insurer transfers an ownership interest in a hull-damaged vessel that is covered by a certificate of title created by the department, the insurer shall deliver to the department an application for a new certificate that complies with s. 328.01 and includes the title brand designation "Hull Damaged." Not later than 30 days after delivery of the application to the department, the department shall create a new certificate that indicates that the vessel is branded "Hull Damaged."

(4) An owner of record who fails to comply with subsection (1), a person who solicits or colludes in a failure by an owner of record to comply with subsection (1), or an insurer that fails to comply with subsection (3) commits a noncriminal infraction under s. 327.73(1) for which the penalty is $5,000 for the first offense, $15,000 for a second offense, and $25,000 for each subsequent offense.

Section 9. Section 328.055, Florida Statutes, is created to read:

328.055 Maintenance of and access to files.—
(1) For each record relating to a certificate of title submitted to the department, the department shall:
   (a) Ascertain or assign the hull identification number for the vessel;
   (b) Maintain the hull identification number and all the information submitted with the application pursuant to s. 328.01(2) to which the record relates, including the date and time the record was delivered to the department;
   (c) Maintain the files for public inspection subject to subsection (5); and
   (d) Index the files of the department as required by subsection (2).

(2) The department shall maintain in its files the information contained in all certificates of title created under this part. The information in the files of the department must be searchable by the hull identification number of the vessel, the vessel number, the name of the owner of record, and any other method used by the department.

(3) The department shall maintain in its files, for each vessel for which it has created a certificate of title, all title brands known to the department, the name of each secured party known to the department, the name of each person known to the department to be claiming an ownership interest, and all stolen property reports the department has received.

(4) Upon request, for safety, security, or law enforcement purposes, the department shall provide to federal, state, or local government the information in its files relating to any vessel for which the department has issued a certificate of title.

(5) Except as otherwise provided by the laws of this state, other than this part, the information required under s. 328.04 is a public record.

Section 10. Section 328.06, Florida Statutes, is created to read:

328.06 Action required on creation of certificate of title.—
(1) On creation of a written certificate of title, the department shall promptly send the certificate to the secured party of record or, if none, to the owner of record at the address indicated for that person in the files of the department. On creation of an electronic certificate of title, the department shall promptly send a record evidencing the certificate to the owner of record and, if there is one, to the secured party of record at the address indicated for each person in the files of the department. The department may send the record to the person’s mailing address or, if indicated in the files of the department, an electronic address.

(2) If the department creates a written certificate of title, any electronic certificate of title for the vessel is canceled and replaced by the written certificate. The department shall maintain in the files of the department the date and time of cancellation.

(3) Before the department creates an electronic certificate of title, any written certificate for the vessel must be surrendered to the department. If the department creates an electronic certificate, the department shall destroy or otherwise cancel the written certificate for the vessel which has been surrendered to the department and maintain in the files...
The department creates electronic certificates of title, the department shall create an electronic certificate that it has been canceled.

Section 11. Section 328.065, Florida Statutes, is created to read:

328.065 Effect of possession of certificate of title; judicial process.—Possession of a certificate of title does not by itself provide a right to obtain possession of a vessel. Garnishment, attachment, levy, replevin, or other judicial process against the certificate is not effective to determine possessory rights to the vessel. This part does not prohibit enforcement under the laws of this state of a security interest in, levy on, or foreclosure of a statutory or common-law lien on a vessel. Absence of an indication of a statutory or common-law lien on a certificate does not invalidate the lien.

Section 12. Section 328.09, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 328.09, F.S., for present text.)

328.09 Refusal to issue and authority to cancel a certificate of title or registration.—

(1) Unless an application for a certificate of title is rejected under subsection (3) or subsection (4), the department shall create a certificate for the vessel in accordance with subsection (2) not later than 30 days after delivery to the department of an application that complies with s. 328.01.

(2) If the department creates electronic certificates of title, the department shall create an electronic certificate.
Section 13. Section 328.101, Florida Statutes, is created to read:

328.101 Effect of missing or incorrect information.—Except as otherwise provided in s. 679.337, a certificate of title or other record required or authorized by this part may not be issued, perfected, or corrected if it contains unintended scrivener’s errors or does not contain certain required information if such missing information is determined by the department to be inconsequential to the issuing of a certificate of title or other record.

Section 14. Section 328.11, Florida Statutes, is amended to read:

328.11 Duplicate certificate of title.—

(1) If a written certificate of title is lost, stolen, mutilated, destroyed, or otherwise becomes unavailable or illegible, the secured party of record or, if no secured party is indicated in the files of the department, the owner of record may apply for and, by furnishing information satisfactory to the department, obtain a duplicate certificate in the name of the owner of record.

(2) An applicant for a duplicate certificate of title must sign the application, and, except as otherwise permitted by the department, the application must comply with s. 328.01. The application must include the existing certificate unless the certificate is lost, stolen, mutilated, destroyed, or otherwise unavailable.

(3) A duplicate certificate of title created by the department must comply with s. 328.04 and indicate on the face of the certificate that it is a duplicate certificate.

(4) If a person receiving a duplicate certificate of title subsequently obtains possession of the original written certificate, the person shall promptly destroy the original certificate of title.

(5) The Department of Highway Safety and Motor Vehicles may issue a duplicate certificate of title upon application by the person entitled to hold such a certificate if the department is satisfied that the original certificate has been lost, destroyed, or mutilated. The department shall charge a fee of $6 for issuing a duplicate certificate.

(6) In addition to the fee imposed by subsection (5), the department of Highway Safety and Motor Vehicles shall charge a fee of $5 for expedited service in issuing a duplicate certificate of title. Application for such expedited service may be made by mail or in person. The department shall issue each certificate of title applied for under this subsection within 5 working days after receipt of a proper application or shall refund the additional $5 fee upon written request by the applicant.

(7) If, following the issuance of an original, duplicate, or corrected certificate of title by the department, the certificate is lost in transit and is not delivered to the addressee, the owner of the vessel or the holder of a lien thereon may, within 180 days after the date of issuance of the title, apply to the department for reissuance of the certificate of title. An additional fee may not be charged for reissuance.
The department shall implement a system to verify that the application is signed by a person authorized to receive a duplicate title certificate under this section if the address shown on the application is different from the address shown for the applicant on the records of the department.

Section 15. Section 328.12, Florida Statutes, is created to read:

328.12 Perfection of security interest.—

(1) Except as otherwise provided in this section, a security interest in a vessel may be perfected only by delivery to the department of an application for a certificate of title that identifies the secured party and otherwise complies with s. 328.01. The security interest is perfected on the later of delivery to the department of the application and the applicable fee or attachment of the security interest under s. 679.2031.

(2) If the interest of a person named as owner, lessor, consignor, or bailor in an application for a certificate of title delivered to the department is a security interest, the application sufficiently identifies the person as a secured party. Identification on the application for a certificate of a person as owner, lessor, consignor, or bailor is not by itself a factor in determining whether the person’s interest is a security interest.

(3) If the department has created a certificate of title for a vessel, a security interest in the vessel may be perfected by delivery to the department of an application, on a form the department may require, to have the security interest added to the certificate. The application must be signed by an owner of the vessel or by the secured party and must include:

(a) The name of the owner of record;

(b) The name and mailing address of the secured party;

(c) The hull identification number for the vessel; and

(d) If the department has created a written certificate of title for the vessel, the certificate.

(4) A security interest perfected under subsection (3) is perfected on the later of delivery to the department of the application and all applicable fees or attachment of the security interest under s. 679.2031.

(5) On delivery of an application that complies with subsection (3) and payment of all applicable fees, the department shall create a new certificate of title pursuant to s. 328.09 and deliver the new certificate or a record evidencing an electronic certificate pursuant to s. 328.06. The department shall maintain in the files of the department the date and time of delivery of the application to the department.

(6) If a secured party assigns a perfected security interest in a vessel, the receipt by the department of a statement providing the name of the assignee as secured party is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor. A purchaser of a vessel subject to a security interest who obtains a release from the secured party indicated in the files of the department or on the certificate takes free of the security interest and of the rights of a transferee unless the transfer is indicated in the files of the department or on the certificate.

(7) This section does not apply to a security interest:
(a) Created in a vessel by a person during any period in which the vessel is inventory held for sale or lease by the person or is leased by the person as lessor if the person is in the business of selling vessels;

(b) In a barge for which no application for a certificate of title has been delivered to the department; or

(c) In a vessel before delivery if the vessel is under construction, or completed, pursuant to contract and for which no application for a certificate has been delivered to the department.

(8) This subsection applies if a certificate of documentation for a documented vessel is deleted or canceled. If a security interest in the vessel was valid immediately before deletion or cancellation against a third party as a result of compliance with 46 U.S.C. s. 31321, the security interest is and remains perfected until the earlier of 4 months after cancellation of the certificate or the time the security interest becomes perfected under this part.

(9) A security interest in a vessel arising under s. 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is perfected when it attaches but becomes unperfected when the debtor obtains possession of the vessel, unless the security interest is perfected pursuant to subsection (1) or subsection (3) before the debtor obtains possession.

(10) A security interest in a vessel as proceeds of other collateral is perfected to the extent provided in s. 679.3151.

(11) A security interest in a vessel perfected under the law of another jurisdiction is perfected to the extent provided in s. 679.3161(4).
Section 17. Section 328.14, Florida Statutes, is created to read:

328.14 Rights of purchaser other than secured party.—
(1) A buyer in ordinary course of business has the protections afforded by ss. 672.403(2) and 679.320(1) even if an existing certificate of title was not signed and delivered to the buyer or a new certificate listing the buyer as owner of record was not created.
(2) Except as otherwise provided in ss. 328.145 and 328.22, the rights of a purchaser of a vessel who is not a buyer in ordinary course of business or a lien creditor are governed by the Uniform Commercial Code.

Section 18. Section 328.145, Florida Statutes, is created to read:

328.145 Rights of secured party.—
(1) Subject to subsection (2), the effect of perfection and nonperfection of a security interest and the priority of a
perfected or unperfected security interest with respect to the rights of a purchaser or creditor, including a lien creditor, is governed by the Uniform Commercial Code.
(2) If, while a security interest in a vessel is perfected by any method under this part, the department creates a certificate of title that does not indicate that the vessel is subject to the security interest or contain a statement that it may be subject to security interests not indicated on the certificate:
(a) A buyer of the vessel, other than a person in the business of selling or leasing vessels of that kind, takes free of the security interest if the buyer, acting in good faith and without knowledge of the security interest, gives value and receives possession of the vessel; and
(b) The security interest is subordinate to a conflicting security interest in the vessel that is perfected under s. 328.12 after creation of the certificate and without the conflicting secured party’s knowledge of the security interest.

Section 19. Section 328.15, Florida Statutes, is amended to read:

328.15 Notice of lien on vessel; recording.—
(1) No lien for purchase money or as security for a debt in the form of retain title contract, conditional bill of sale, chattel mortgage, or otherwise on a vessel shall be enforceable in any of the courts of this state against creditors or subsequent purchasers for a valuable consideration and without notice unless a sworn notice of such lien is recorded. The lien certificate shall contain the following information:
(a) Name and address of the registered owner;
The lien shall be recorded by the Department of Highway Safety and Motor Vehicles and shall be effective as constructive notice when filed. The date of filing of the notice of lien is the date of its receipt by the department’s central office in Tallahassee, if first filed there, or otherwise by the office of a county tax collector or of the tax collector’s agent.

(2)(a) The Department of Highway Safety and Motor Vehicles shall not enter any lien upon its lien records, whether it is a first lien or a subordinate lien, unless the official certificate of title issued for the vessel is furnished with the notice of lien, so that the record of lien, whether original or subordinate, may be noted upon the face thereof. After the department records the lien, it shall send the certificate of title to the holder of the first lien who shall hold such certificate until the lien is satisfied in full.

(b) The Department of Highway Safety and Motor Vehicles shall not enter any lien upon its lien records, whether it is a first lien or a subordinate lien, unless the official certificate of title issued for the vessel is furnished with the notice of lien, so that the record of lien, whether original or subordinate, may be noted upon the face thereof. After the department records the lien, it shall send the certificate of title to the holder of the first lien who shall hold such certificate until the lien is satisfied in full.

(4) If the owner of the vessel as shown on the title certificate or the director of the state child support enforcement program desires to place a second or subsequent lien or encumbrance against the vessel when the title certificate is in the possession of the first lienholder, the owner shall send a written request to the first lienholder by certified mail and such first lienholder shall forward the certificate to the department for endorsement. The department shall return the certificate to the first lienholder, as indicated in the notice of lien filed by the first lienholder, after endorsing the second or subsequent lien on the certificate and on the duplicate. If the first lienholder fails, neglects, or refuses to forward the certificate of title to the department within 10 days after the date of the owner’s or the director’s request, the department, on written request of the subsequent lienholder or an assignee thereof, shall demand of the first lienholder the return of such certificate for the notation of the second or subsequent lien or encumbrance.

(1) Upon the payment of any such lien, the debtor or the registered owner of the motorboat shall be entitled to demand and receive from the lienholder a satisfaction of the lien which shall likewise be filed with the Department of Highway Safety and Motor Vehicles.

(2) The Department of Highway Safety and Motor Vehicles under precautionary rules and regulations to be promulgated by it may permit the use, in substitution of the formal satisfaction of lien, of other methods of satisfaction, such as perforation, appropriate stamp, or otherwise, as it deems fit.
The Department of Highway Safety and Motor Vehicles is entitled to a fee of $1 for the recording of each notice of lien. No fee shall be charged for recording the satisfaction of a lien. All of the fees collected shall be paid into the Marine Resources Conservation Trust Fund.

Should any person, firm, or corporation holding a lien be notified. The department shall prepare the forms of the notice of lien and the satisfaction of lien to be supplied, at a charge not to exceed 50 percent more than cost, to applicants for recording the liens or satisfactions and shall keep a record of such notices of lien and satisfactions available for inspection by the public at all reasonable times.

The division may furnish certified copies of such satisfactions for a fee of $1, which are admissible in evidence in all courts of this state under the same conditions and to the same effect as certified copies of other public records.

(b) The department shall establish and administer an electronic titling program that requires the recording of vessel title information for new, transferred, and corrected certificates of title. Lienholders shall electronically transmit liens and lien satisfactions to the department in a format determined by the department. Individuals and lienholders who the department determines are not normally engaged in the business or practice of financing vessels are not required to participate in the electronic titling program.

(c) The Department of Highway Safety and Motor Vehicles is entitled to a fee of $1 for the recording of each notice of lien. No fee shall be charged for recording the satisfaction of a lien. All of the fees collected shall be paid into the Marine Resources Conservation Trust Fund.

(a) Should any person, firm, or corporation holding a lien be notarized. The department shall prepare the forms of the notice of lien and the satisfaction of lien to be supplied, at a charge not to exceed 50 percent more than cost, to applicants for recording the liens or satisfactions and shall keep a record of such notices of lien and satisfactions available for inspection by the public at all reasonable times.

The division may furnish certified copies of such satisfactions for a fee of $1, which are admissible in evidence in all courts of this state under the same conditions and to the same effect as certified copies of other public records.

(b) The department shall establish and administer an electronic titling program that requires the recording of vessel title information for new, transferred, and corrected certificates of title. Lienholders shall electronically transmit liens and lien satisfactions to the department in a format determined by the department. Individuals and lienholders who the department determines are not normally engaged in the business or practice of financing vessels are not required to participate in the electronic titling program.

(c) The Department of Highway Safety and Motor Vehicles is entitled to a fee of $1 for the recording of each notice of lien. No fee shall be charged for recording the satisfaction of a lien. All of the fees collected shall be paid into the Marine Resources Conservation Trust Fund.

(d) The Department of Highway Safety and Motor Vehicles is entitled to a fee of $1 for the recording of each notice of lien. No fee shall be charged for recording the satisfaction of a lien. All of the fees collected shall be paid into the Marine Resources Conservation Trust Fund.
shown on the face of the title, a corrected certificate showing no liens or encumbrances. If there is a subsequent lien not being discharged, the certificate of title shall be reissued showing the second or subsequent lienholder as the first lienholder and shall be delivered to the new first lienholder. The first lienholder shall be entitled to retain the certificate of title until his or her lien is satisfied. Upon satisfaction of the lien, the lienholder shall be subject to the procedures required of a first lienholder in this subsection and in subsection (5).

(5) When the original certificate of title cannot be returned to the department by the lienholder and evidence satisfactory to the department is produced that all liens or encumbrances have been satisfied, upon application by the owner for a duplicate copy of the certificate of title, upon the form prescribed by the department, accompanied by the fee prescribed in this chapter, a duplicate copy of the certificate of title without statement of liens or encumbrances shall be issued by the department and delivered to the owner.

(6) Any person who fails, within 10 days after receipt of a demand by the department by certified mail, to return a certificate of title to the department as required by paragraph (4)(a) or who, upon satisfaction of a lien, fails within 10 days after receipt of such demand to forward the appropriate document to the department as required by paragraph (4)(b) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(7) The department shall use the last known address as shown by its records when sending any notice required by this section.

(8) If the original lienholder sells and assigns his or her lien to some other person, and if the assignee desires to have his or her name substituted on the certificate of title as the holder of the lien, he or she may, after delivering the original certificate of title to the department and providing a sworn statement of the assignment, have his or her name substituted as a lienholder. Upon substitution of the assignee’s name as lienholder, the department shall deliver the certificate of title to the assignee as the first lienholder.

(9) Subsections (1), (2), and (4)-(8) shall expire October 1, 2026.

Section 20. Section 328.16, Florida Statutes, is amended to read:

328.16 Issuance in duplicate; delivery; liens, security interests, and encumbrances.—

1. The department shall assign a number to each certificate of title and shall issue each certificate of title and each corrected certificate in duplicate. The database record shall serve as the duplicate title certificate.

2. An authorized person must sign the original certificate of title and each corrected certificate and, if there are no liens, security interests, or encumbrances on the vessel, as shown in the records of the department or as shown in the application, must deliver the certificate to the applicant or to another person as directed by the applicant or person, agent, or attorney submitting the application. If there are one or more liens, security interests, or encumbrances on the vessel, the department must deliver the certificate to the first lienholder.
or secured party as shown by department records. The department shall deliver to the first lienholder or secured party, along with the certificate, a form to be subsequently used by the lienholder or secured party as a satisfaction. If the application for certificate of title shows the name of a first lienholder or secured party which is different from the name of the first lienholder or secured party as shown by the records of the department, the certificate shall not be issued to any person until after the department notifies all parties who appear to hold a lien or a security interest and the applicant for the certificate, in writing by certified mail. If the parties do not amicably resolve the conflict within 10 days after the date the notice was mailed, the department shall serve notice in writing by certified mail on all persons that appear to hold liens or security interests on that particular vessel, including the applicant for the certificate, to show cause within 15 days after the date the notice is mailed why it should not issue and deliver the certificate to the secured party of record or person indicated in the notice of lien filed by the lienholder whose name appears in the application as the first lienholder without showing any lien or liens as outstanding other than those appearing in the application or those filed subsequent to the filing of the application for the certificate of title. If, within the 15-day period, any person other than the lienholder or secured party of record shown in the application or a party filing a subsequent lien or security interest, in answer to the notice to show cause, appears in person or by a representative, or responds in writing, and files a written statement under oath that his or her lien or security interest on that particular vessel is still outstanding, the department shall not issue the certificate to anyone until after the conflict has been settled by the lien or security interest claimants involved or by a court of competent jurisdiction. If the conflict is not settled amicably within 10 days after the final date for filing an answer to the notice to show cause, the complaining party shall have 10 days to obtain a ruling, or a stay order, from a court of competent jurisdiction. If a ruling or stay order is not issued and served on the department within the 10-day period, the department shall issue the certificate showing no liens or security interests, except those shown in the application or thereafter filed, to the original applicant if there are no liens or security interests shown in the application and none are thereafter filed, or to the person indicated as the secured party of record or in the notice of lien filed by the lienholder whose name appears in the application as the first lienholder if there are liens shown in the application or thereafter filed. A duplicate certificate or corrected certificate must show only such security interest or liens or security interests that may be outstanding.

(3) Except as provided in s. 328.15111. The certificate of title shall be retained by the first lienholder or secured party of record. The first lienholder or secured party of record is entitled to retain the certificate until the first lien or security interest is satisfied.

(4) Notwithstanding any requirements in this section or in s. 328.15 indicating that a lien or security interest on a

CODING: Words stricken are deletions; words underlined are additions.
vessel shall be noted on the face of the Florida certificate of title, if there are one or more lien, security interests, or encumbrances on a vessel, the department shall electronically transmit the lien or security interest to the first lienholder or secured party and notify the first lienholder or secured party of any additional liens or security interests. Subsequent lien or security interest satisfaction shall be electronically transmitted to the department and must include the name and address of the person or entity satisfying the lien or security interest. When electronic transmission of liens or security interests and lien satisfaction or security interests are used, the issuance of a certificate of title may be waived until the last lien or security interest is satisfied and a clear certificate of title is issued to the owner of the vessel.

(5) The owner of a vessel, upon which a lien or security interest has been filed with the department or noted upon a certificate of title for a period of 5 years, may apply to the department in writing for such lien or security interest to be removed from the department files or from the certificate of title. The application must be accompanied by evidence satisfactory to the department that the applicant has notified the lienholder or secured party by certified mail, not less than 20 days before the date of the application, of his or her intention to apply to the department for removal of the lien or security interest. Ten days after receipt of the application, the department may remove the lien or security interest from its files or from the certificate of title, as the case may be, if no statement in writing protesting removal of the lien or security interest is received by the department from the lienholder or secured party within the 10-day period. However, if the lienholder or secured party files with the department, within the 10-day period, a written statement that the lien or security interest is still outstanding, the department may not remove the lien or security interest until the lienholder or secured party presents a satisfaction of lien or satisfaction of security interest to the department.

Section 21. Subsection (1) of section 328.165, Florida Statutes, is amended to read:

328.165 Cancellation of certificates.—

(1) If it appears that a certificate of title has been improperly issued, the department shall cancel the certificate. Upon cancellation of any certificate of title, the department shall notify the person to whom the certificate of title was issued, and any lienholders or secured parties appearing thereon, of the cancellation and shall demand the surrender of the certificate of title; however, the cancellation does not affect the validity of any lien or security interest noted thereon. The holder of the certificate of title shall immediately return it to the department. If a certificate of registration has been issued to the holder of a certificate of title so canceled, the department shall immediately cancel the certificate of registration and demand the return of the certificate of registration, and the holder of such certificate of registration shall immediately return it to the department.

Section 22. Section 328.215, Florida Statutes, is created to read:

328.215 Application for transfer of ownership or termination of security interest without certificate of title.—
Section 23. Section 328.22, Florida Statutes, is created to

(2) The department may indicate in a certificate of title created under subsection (1) that the certificate was created without submission of a signed certificate or termination statement. Unless credible information indicating theft, fraud, or an undisclosed or unsatisfied security interest, lien, or other claim to an interest in the vessel is delivered to the department not later than 1 year after creation of the certificate, on request in a form and manner required by the department, the department shall remove the indication from the certificate.

(3) Before the department creates a certificate of title under subsection (1), the department may require the applicant to post a reasonable bond or provide an equivalent source of indemnity or security. The bond, indemnity, or other security must be in a form required by the department and provide for indemnification of any owner, purchaser, or other claimant for any expense, loss, delay, or damage, including reasonable attorney fees and costs, but not including incidental or consequential damages, resulting from creation or amendment of the certificate.

(4) Unless the department receives a claim for indemnity not later than 1 year after creation of a certificate of title under subsection (1), on request in a form and manner required by the department, the department shall release any bond, indemnity, or other security. The department is not liable to a person or entity for creating a certificate of title under this section when the department issues the certificate of title in good faith based on the information provided by an applicant. An applicant that submits erroneous or fraudulent information with the intent to mislead the department into issuing a certificate of title under this section is subject to the penalties established in s. 328.045(4) in addition to any other criminal or civil penalties provided by law.

Section 23. Section 328.22, Florida Statutes, is created to
subsection (1) is not effective against another person claiming an interest in the vessel.

(4) A transferor that complies with subsection (1) is not liable as owner of the vessel for an event occurring after the transfer, regardless of whether the transferee applies for a new certificate of title.

Section 24. Section 328.23, Florida Statutes, is created to read:

328.23 Transfer of ownership by secured party’s transfer statement.—

(1) For the purposes of this section, “secured party’s transfer statement” means a record signed by the secured party of record stating:

(a) That there has been a default on an obligation secured by the vessel;

(b) That the secured party of record is exercising or has exercised post-default remedies with respect to the vessel;

(c) That by reason of the exercise, the secured party of record has the right to transfer the ownership interest of an owner, and the name of the owner;

(d) The name and last known mailing address of the owner of record and the secured party of record;

(e) The name of the transferee;

(f) Other information required by s. 328.01(2); and

(g) One of the following:

1. The certificate of title is an electronic certificate.

2. The secured party does not have possession of the written certificate of title created in the name of the owner of record.

CODING: Words stricken are deletions; words underlined are additions.
For the purposes of this section, “by operation of law” means pursuant to a law or judicial order affecting ownership of a vessel:

(a) Because of death, divorce, or other family law proceeding, merger, consolidation, dissolution, or bankruptcy;

(b) Through the exercise of the rights of a lien creditor or a person having a lien created by statute or rule of law; or

(c) Through other legal process.

(2) A transfer-by-law statement must contain:

(a) The name and last known mailing address of the owner of record and the transferee and the other information required by s. 328.01;

(b) Documentation sufficient to establish the transferee’s ownership interest or right to acquire the ownership interest;

(c) A statement that:

1. The certificate of title is an electronic certificate of title;

2. The transferee does not have possession of the written certificate of title created in the name of the owner of record; or

3. The transferee is delivering the written certificate to the department with the transfer-by-law statement; and

(d) Except for a transfer described in paragraph (1)(a), evidence that notification of the transfer and the intent to file the transfer-by-law statement has been sent to all persons indicated in the files of the department as having an interest, including a security interest, in the vessel.

(3) Unless the department rejects a transfer-by-law statement for a reason stated in s. 328.09(3) or because the statement does not include documentation satisfactory to the department shall:

(a) Accept the statement;

(b) Amend the files of the department to reflect the transfer; and

(c) If the name of the owner whose ownership interest is being transferred is indicated on the certificate of title:

1. Cancel the certificate even if the certificate has not been delivered to the department;

2. Create a new certificate indicating the transferee as owner; and

3. Deliver the new certificate or a record evidencing an electronic certificate.

(3) An application under subsection (1) or the creation of a certificate of title under subsection (2) is not by itself a disposition of the vessel and does not by itself relieve the secured party of its duties under chapter 679.

Section 25. Section 328.24, Florida Statutes, is created to read:

328.24 Transfer by operation of law.—

(i) For the purposes of this section, “by operation of law” means pursuant to a law or judicial order affecting ownership of a vessel:

(a) Because of death, divorce, or other family law proceeding, merger, consolidation, dissolution, or bankruptcy;

(b) Through the exercise of the rights of a lien creditor or a person having a lien created by statute or rule of law; or

(c) Through other legal process.

(2) A transfer-by-law statement must contain:

(a) The name and last known mailing address of the owner of record and the transferee and the other information required by s. 328.01;

(b) Documentation sufficient to establish the transferee’s ownership interest or right to acquire the ownership interest;

(c) A statement that:

1. The certificate of title is an electronic certificate of title;

2. The transferee does not have possession of the written certificate of title created in the name of the owner of record; or

3. The transferee is delivering the written certificate to the department with the transfer-by-law statement; and

(d) Except for a transfer described in paragraph (1)(a), evidence that notification of the transfer and the intent to file the transfer-by-law statement has been sent to all persons indicated in the files of the department as having an interest, including a security interest, in the vessel.

(3) Unless the department rejects a transfer-by-law statement for a reason stated in s. 328.09(3) or because the statement does not include documentation satisfactory to the
Section 27. Section 328.41, Florida Statutes, is created to

equity supplement its provisions.

Section 27. Section 328.41, Florida Statutes, is created to

1. Cancel the certificate even if the certificate has not
been delivered to the department;

2. Create a new certificate indicating the transferee as
owner;

3. Indicate on the new certificate any security interest
indicated on the canceled certificate, unless a court order
provides otherwise; and

4. Deliver the new certificate or a record evidencing an
electronic certificate.

(4) This section does not apply to a transfer of an
interest in a vessel by a secured party under part VI of chapter
679.

Section 26. Section 328.25, Florida Statutes, is created to
read:

328.25 Supplemental principles of law and equity.—Unless
displaced by a provision of this part, the principles of law and
equity supplement its provisions.

Section 27. Section 328.41, Florida Statutes, is created to

CODING: Words underlined are deletions; words underlined are additions.
the officer shall cause a notice to be placed upon such article in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY. This property, to wit: ...(setting forth brief description)... is unlawfully upon public property known as ...(setting forth brief description of location)... and must be disposed of pursuant to chapter 705, Florida Statutes. The owner will be liable for the costs of removal, storage, and publication of notice. Dated this: ...(setting forth the date of posting of notice)..., signed: ...(setting forth name, title, address, and telephone number of law enforcement officer)... Such notice shall be not less than 8 inches by 10 inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the law enforcement officer shall make a reasonable effort to ascertain the name and address of the owner. If such is reasonably available to the officer, she or he shall mail a copy of such notice to the owner on or before the date of posting. If the property is a motor vehicle as defined in s. 320.01(1) or a vessel as defined in s. 327.02, the law enforcement agency shall contact the Department of Highway Safety and Motor Vehicles in order to determine the name and address of the owner and any person who has filed a lien on the vehicle or vessel as provided in s. 319.27(2) or (3) or s. 322.15(1). On receipt of this information, the law enforcement agency shall mail a copy of the notice by certified mail, return receipt requested, to the owner and to the lienholder, if any, except that a law enforcement officer who has issued a citation for a violation of s. 823.11 to the owner of a derelict vessel is not required to mail a copy of the notice by certified mail, return receipt requested, to the owner. If, at the end of 5 days after posting the notice and mailing such notice, if required, the owner or any person interested in the lost or abandoned article or articles described has not removed the article or articles from public property or shown reasonable cause for failure to do so, the following shall apply:

(a) For abandoned property, the law enforcement agency may retain any or all of the property for its own use or for use by the state or unit of local government, trade such property to another unit of local government or state agency, donate the property to a charitable organization, sell the property, or notify the appropriate refuse removal service.

(b) For lost property, the officer shall take custody and the agency shall retain custody of the property for 90 days. The agency shall publish notice of the intended disposition of the property, as provided in this section, during the first 45 days of this time period.

1. If the agency elects to retain the property for use by the unit of government, donate the property to a charitable organization, surrender such property to the finder, sell the property, or trade the property to another unit of local government or state agency, notice of such election shall be given by an advertisement published once a week for 2 consecutive weeks in a newspaper of general circulation in the county where the property was found if the value of the property is more than $100. If the value of the property is $100 or less, the property is to be disposed of pursuant to chapter 705, Florida Statutes. The owner will be liable for the costs of removal, storage, and publication of notice. Dated this: ...(setting forth the date of posting of notice)..., signed: ...(setting forth name, title, address, and telephone number of law enforcement officer)... Such notice shall be not less than 8 inches by 10 inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the law enforcement officer shall make a reasonable effort to ascertain the name and address of the owner. If such is reasonably available to the officer, she or he shall mail a copy of such notice to the owner on or before the date of posting. If the property is a motor vehicle as defined in s. 320.01(1) or a vessel as defined in s. 327.02, the law enforcement agency shall contact the Department of Highway Safety and Motor Vehicles in order to determine the name and address of the owner and any person who has filed a lien on the vehicle or vessel as provided in s. 319.27(2) or (3) or s. 322.15(1). On receipt of this information, the law enforcement agency shall mail a copy of the notice by certified mail, return receipt requested, to the owner and to the lienholder, if any, except that a law enforcement officer who has issued a citation for a violation of s. 823.11 to the owner of a derelict vessel is not required to mail a copy of the notice by certified mail, return receipt requested, to the owner. If, at the end of 5 days after posting the notice and mailing such notice, if required, the owner or any person interested in the lost or abandoned article or articles described has not removed the article or articles from public property or shown reasonable cause for failure to do so, the following shall apply:

(a) For abandoned property, the law enforcement agency may retain any or all of the property for its own use or for use by the state or unit of local government, trade such property to another unit of local government or state agency, donate the property to a charitable organization, sell the property, or notify the appropriate refuse removal service.

(b) For lost property, the officer shall take custody and the agency shall retain custody of the property for 90 days. The agency shall publish notice of the intended disposition of the property, as provided in this section, during the first 45 days of this time period.

1. If the agency elects to retain the property for use by the unit of government, donate the property to a charitable organization, surrender such property to the finder, sell the property, or trade the property to another unit of local government or state agency, notice of such election shall be given by an advertisement published once a week for 2 consecutive weeks in a newspaper of general circulation in the county where the property was found if the value of the property is more than $100. If the value of the property is $100 or less, the...
notice shall be given by posting a description of the property at the law enforcement agency where the property was turned in. The notice must be posted for not less than 2 consecutive weeks in a public place designated by the law enforcement agency. The notice must describe the property in a manner reasonably adequate to permit the rightful owner of the property to claim it.

2. If the agency elects to sell the property, it must do so at public sale by competitive bidding. Notice of the time and place of the sale shall be given by an advertisement of the sale published once a week for 2 consecutive weeks in a newspaper of general circulation in the county where the sale is to be held. The notice shall include a statement that the sale shall be subject to any and all liens. The sale must be held at the nearest suitable place to that where the lost or abandoned property is held or stored. The advertisement must include a description of the goods and the time and place of the sale. The sale may take place no earlier than 10 days after the final publication. If there is no newspaper of general circulation in the county where the sale is to be held, the advertisement shall be posted at the door of the courthouse and at three other public places in the county at least 10 days prior to sale. Notice of the agency’s intended disposition shall describe the property in a manner reasonably adequate to permit the rightful owner of the property to identify it.

Section 30. Paragraph (c) of subsection (2) of section 721.08, Florida Statutes, is amended to read:

721.08 Escrow accounts; nondisturbance instruments; alternate security arrangements; transfer of legal title.—

(2) One hundred percent of all funds or other property which is received from or on behalf of purchasers of the timeshare plan or timeshare interest prior to the occurrence of events required in this subsection shall be deposited pursuant to an escrow agreement approved by the division. The funds or other property may be released from escrow only as follows:

(c) Compliance with conditions.—
1. Timeshare licenses.—If the timeshare plan is one in which timeshare licenses are to be sold and no cancellation or default has occurred, the escrow agent may release the escrowed funds or other property to or on the order of the developer upon presentation of:

a. An affidavit by the developer that all of the following conditions have been met:

   (I) Expiration of the cancellation period.
   (II) Completion of construction.
   (III) Closing.
   (IV) Either:
   (A) Execution, delivery, and recordation by each interestholder of the nondisturbance and notice to creditors instrument, as described in this section; or
   (B) Transfer by the developer of legal title to the subject accommodations and facilities, or all use rights therein, into a trust satisfying the requirements of subparagraph 4. and the execution, delivery, and recordation by each interestholder of the nondisturbance and notice to creditors instrument, as described in this section.

b. A certified copy of each recorded nondisturbance and notice to creditors instrument.
c. One of the following:

(I) A copy of a memorandum of agreement, as defined in s. 721.05, together with satisfactory evidence that the original memorandum of agreement has been irrevocably delivered for recording to the appropriate official responsible for maintaining the public records in the county in which the subject accommodations and facilities are located. The original memorandum of agreement must be recorded within 180 days after the date on which the purchaser executed her or his purchase agreement.

(II) A notice delivered for recording to the appropriate official responsible for maintaining the public records in each county in which the subject accommodations and facilities are located notifying all persons of the identity of an independent escrow agent or trustee satisfying the requirements of subparagraph 4. that shall maintain separate books and records, in accordance with good accounting practices, for the timeshare plan in which timeshare licenses are to be sold. The books and records shall indicate each accommodation and facility that is subject to such a timeshare plan and each purchaser of a timeshare license in the timeshare plan.

2. Timeshare estates.—If the timeshare plan is one in which timeshare estates are to be sold and no cancellation or default has occurred, the escrow agent may release the escrowed funds or other property to or on the order of the developer upon presentation of:

a. An affidavit by the developer that all of the following conditions have been met:

(I) Expiration of the cancellation period.

(II) Completion of construction.

(III) Closing.

b. If the timeshare estate is sold by agreement for deed, a certified copy of the recorded nondisturbance and notice to creditors instrument, as described in this section.

c. Evidence that each accommodation and facility:

(I) Is free and clear of the claims of any interestholders, other than the claims of interestholders that, through a recorded instrument, are irrevocably made subject to the timeshare instrument and the use rights of purchasers made available through the timeshare instrument;

(II) Is the subject of a recorded nondisturbance and notice to creditors instrument that complies with subsection (3) and s. 721.17; or

(III) Has been transferred into a trust satisfying the requirements of subparagraph 4.

d. Evidence that the timeshare estate:

(I) Is free and clear of the claims of any interestholders, other than the claims of interestholders that, through a recorded instrument, are irrevocably made subject to the timeshare instrument and the use rights of purchasers made available through the timeshare instrument; or

(II) Is the subject of a recorded nondisturbance and notice to creditors instrument that complies with subsection (3) and s. 721.17.

3. Personal property timeshare interests.—If the timeshare plan is one in which personal property timeshare interests are to be sold and no cancellation or default has occurred, the escrow agent may release the escrowed funds or other property to...
or on the order of the developer upon presentation of:

a. An affidavit by the developer that all of the following conditions have been met:

   (I) Expiration of the cancellation period.
   (II) Completion of construction.
   (III) Closing.

b. If the personal property timeshare interest is sold by agreement for transfer, evidence that the agreement for transfer complies fully with s. 721.06 and this section.

c. Evidence that one of the following has occurred:

   (I) Transfer by the owner of the underlying personal property of legal title to the subject accommodations and facilities or all use rights therein into a trust satisfying the requirements of subparagraph 4.; or
   (II) Transfer by the owner of the underlying personal property of legal title to the subject accommodations and facilities or all use rights therein into an owners’ association satisfying the requirements of subparagraph 5.

d. Evidence of compliance with the provisions of subparagraph 6., if required.

e. If a personal property timeshare plan is created with respect to accommodations and facilities that are located on or in an oceangoing vessel, including a “documented vessel” or a “foreign vessel,” as defined and governed by 46 U.S.C. chapter 301:

   (I) In making the transfer required in sub-subparagraph c., the developer shall use as its transfer instrument a document that establishes and protects the continuance of the use rights in the subject accommodations and facilities in a manner that is

   enforceable by the trust or owners’ association.

   (II) The transfer instrument shall comply fully with the provisions of this chapter, shall be part of the timeshare instrument, and shall contain specific provisions that:

   (A) Prohibit the vessel owner, the developer, any manager or operator of the vessel, the owners’ association or the trustee, the managing entity, or any other person from incurring any liens against the vessel except for liens that are required for the operation and upkeep of the vessel, including liens for fuel expenditures, repairs, crews’ wages, and salvage, and except as provided in sub-sub-subparagraphs 4.b.(III) and 5.b.(III). All expenses, fees, and taxes properly incurred in connection with the creation, satisfaction, and discharge of any such permitted lien, or a prorated portion thereof if less than all of the accommodations on the vessel are subject to the timeshare plan, shall be common expenses of the timeshare plan.

   (B) Grant a lien against the vessel in favor of the owners’ association or trustee to secure the full and faithful performance of the vessel owner and developer of all of their obligations to the purchasers.

   (C) Establish governing law in a jurisdiction that recognizes and will enforce the timeshare instrument and the laws of the jurisdiction of registry of the vessel.

   (D) Require that a description of the use rights of purchasers be posted and displayed on the vessel in a manner that will give notice of such rights to any party examining the vessel. This notice must identify the owners’ association or trustee and include a statement disclosing the limitation on incurring liens against the vessel described in sub-sub-sub-
subparagraph (A).

(E) Include the nondisturbance and notice to creditors instrument for the vessel owner and any other interestholders.

(F) The owners’ association created under subparagraph 5. or trustee created under subparagraph 4. shall have access to any certificates of classification in accordance with the timeshare instrument.

(III) If the vessel is a foreign vessel, the vessel must be registered in a jurisdiction that permits a filing evidencing the use rights of purchasers in the subject accommodations and facilities, offers protection for such use rights against unfiled and inferior claims, and recognizes the document or instrument creating such use rights as a lien against the vessel.

(IV) In addition to the disclosures required by s. 721.07(5), the public offering statement and purchase contract must contain a disclosure in conspicuous type in substantially the following form:

The laws of the State of Florida govern the offering of this timeshare plan in this state. There are inherent risks in purchasing a timeshare interest in this timeshare plan because the accommodations and facilities of the timeshare plan are located on a vessel that will sail into international waters and into waters governed by many different jurisdictions. Therefore, the laws of the State of Florida cannot fully protect your purchase of an interest in this timeshare plan. Specifically, management and operational issues may need to be addressed in the jurisdiction in which the vessel is registered, which is

CODING: Words **stricken** are deletions; words **underlined** are additions.
purchaser has a right to occupy any portion of the timeshare property pursuant to the timeshare plan.

(III) The trustee shall not convey, hypothecate, mortgage, assign, lease, or otherwise transfer or encumber in any fashion any interest in or portion of the timeshare property with respect to which any purchaser has a right of use or occupancy unless the timeshare plan is terminated pursuant to the timeshare instrument, or such conveyance, hypothecation, mortgage, assignment, lease, transfer, or encumbrance is approved by a vote of two-thirds of all voting interests of the timeshare plan. Subject to s. 721.552, a vote of the voting interests of the timeshare plan is not required for substitution or automatic deletion of accommodations or facilities.

(IV) All purchasers of the timeshare plan or the owners’ association of the timeshare plan shall be the express beneficiaries of the trust. The trustee shall act as a fiduciary to the beneficiaries of the trust. The personal liability of the trustee shall be governed by ss. 736.08125, 736.08163, 736.1013, and 736.1015. The agreement establishing the trust shall set forth the duties of the trustee. The trustee shall be required to furnish promptly to the division upon request a copy of the complete list of the names and addresses of the owners in the timeshare plan and a copy of any other books and records of the timeshare plan required to be maintained pursuant to s. 721.13 that are in the possession, custody, or control of the trustee. All expenses reasonably incurred by the trustee in the performance of its duties, together with any reasonable compensation of the trustee, shall be common expenses of the timeshare plan.

(V) The trustee shall not resign upon less than 90 days’ prior written notice to the managing entity and the division. No resignation shall become effective until a substitute trustee, approved by the division, is appointed by the managing entity and accepts the appointment.

(VI) The documents establishing the trust arrangement shall constitute a part of the timeshare instrument.

(VII) For trusts holding property in a timeshare plan located outside this state, the trust and trustee holding such property shall be deemed in compliance with the requirements of this subparagraph if such trust and trustee are authorized and qualified to conduct trust business under the laws of such jurisdiction and the agreement or law governing such trust arrangement provides substantially similar protections for the purchaser as are required in this subparagraph for trusts holding property in a timeshare plan in this state.

(VIII) The trustee shall have appointed a registered agent in this state for service of process. In the event such a registered agent is not appointed, service of process may be served pursuant to s. 721.265.

5. Owners’ association.—
   a. If the subject accommodations or facilities, or all use rights therein, are to be transferred into an owners’ association in order to comply with this paragraph, such transfer shall take place pursuant to this subparagraph.
   b. Before the transfer of the subject accommodations and facilities, or all use rights therein, to an owners’ association, any lien or other encumbrance against such accommodations and facilities, or use rights therein, shall be
made subject to a nondisturbance and notice to creditors instrument pursuant to subsection (3). No transfer pursuant to this subparagraph shall become effective until the owners’ association accepts such transfer and the responsibilities set forth herein. An owners’ association established pursuant to this subparagraph shall comply with the following provisions:

(I) The owners’ association shall be a business entity authorized and qualified to conduct business in this state.

(II) Control of the board of directors of the owners’ association must be independent from any developer or managing entity of the timeshare plan or any interestholder.

(III) The bylaws of the owners’ association shall provide that the corporation may not be voluntarily dissolved without the unanimous vote of all owners of personal property timeshare interests so long as any purchaser has a right to occupy any portion of the timeshare property pursuant to the timeshare plan.

(IV) The owners’ association shall not convey, hypothecate, mortgage, assign, lease, or otherwise transfer or encumber in any fashion any interest in or portion of the timeshare property with respect to which any purchaser has a right of use or occupancy, unless the timeshare plan is terminated pursuant to the timeshare instrument, or unless such conveyance, hypothecation, mortgage, assignment, lease, transfer, or encumbrance is approved by a vote of two-thirds of all voting interests of the association and such decision is declared by a court of competent jurisdiction to be in the best interests of the purchasers of the timeshare plan. The owners’ association shall notify the division in writing within 10 days after receiving notice of the filing of any petition relating to obtaining such a court order. The division shall have standing to advise the court of the division’s interpretation of the statute as it relates to the petition.

(V) All purchasers of the timeshare plan shall be members of the owners’ association and shall be entitled to vote on matters requiring a vote of the owners’ association as provided in this chapter or the timeshare instrument. The owners’ association shall act as a fiduciary to the purchasers of the timeshare plan. The articles of incorporation establishing the owners’ association shall set forth the duties of the owners’ association. All expenses reasonably incurred by the owners’ association in the performance of its duties, together with any reasonable compensation of the officers or directors of the owners’ association, shall be common expenses of the timeshare plan.

(VI) The documents establishing the owners’ association shall constitute a part of the timeshare instrument.

(VII) For owners’ associations holding property in a timeshare plan located outside this state, the owners’ association holding such property shall be deemed in compliance with the requirements of this subparagraph if such owners’ association is authorized and qualified to conduct owners’ association business under the laws of such jurisdiction and the agreement or law governing such arrangement provides substantially similar protections for the purchaser as are required in this subparagraph for owners’ associations holding property in a timeshare plan in this state.

(VIII) The owners’ association shall have appointed a
Section 31. (1) The rights, duties, and interests flowing pursuant to subsection (3).

Section 33. This act shall take effect July 1, 2023.
March 27th, 2019

The Honorable Travis Hutson, Chair
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Hutson:

I am writing to request that Senate Bill 676, Certificates of Title for Vessels, be placed on the agenda of the next Appropriations Subcommittee on Transportation, Tourism, and Economic Development meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me. Thank you for your time and consideration.

Warm regards,

Ed Hooper

Cc: Jennifer Hrdlicka, Staff Director
    Tempie Sailors, Administrative Assistant
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date
April 9, 2019

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic
Vessel titling

Name
David Childs

Job Title
Counsel

Address
119 S. Macrae St Suite 300
Tallahassee, FL 32301

Phone
850-222-7500

Email
DAVID@HOLC.DE

Speaking: □ For □ Against □ Information
Waive Speaking: □ In Support □ Against
(The Chair will read this information into the record.)

Representing
National Marine Manufacturers Association

Appearing at request of Chair: □ Yes □ No
Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
Sent from my iPhone

Begin forwarded message:

From: "Callaway, Pace" <PaceCallaway@flhsmv.gov>
Date: April 2, 2019 at 12:52:28 PM EDT
To: "Carey, Susan (Suzie)" <SusanCarey@flhsmv.gov>
Subject: Re: Quick check on fiscal for the strike-all to SB 676, please?

Yeah it's about $2,300

Get Outlook for iOS

From: Carey, Susan (Suzie) <susancarey@flhsmv.gov>
Sent: Tuesday, April 2, 2019 12:30 PM
To: Callaway, Pace
Subject: FW: Quick check on fiscal for the strike-all to SB 676, please?

Pace,
Do you already have this information – it seems like this is the one we talked about that was very low...

From: Hrdlicka, Jennifer <Jennifer.Hrdlicka@LASPBS.STATE.FL.US>
Sent: Tuesday, April 2, 2019 12:24 PM
To: Carey, Susan (Suzie) <SusanCarey@flhsmv.gov>; Callaway, Pace <PaceCallaway@flhsmv.gov>
Subject: [EXT] RE: Quick check on fiscal for the strike-all to SB 676, please?

Hi!
One more question – how much does you collect in a year for the $1 recording of lien fee that the bill repeals?

Thanks!
Jennifer

From: Carey, Susan (Suzie) <SusanCarey@flhsmv.gov>
Sent: Monday, April 1, 2019 2:57 PM
To: Hrdlicka, Jennifer <Jennifer.Hrdlicka@LASPBS.STATE.FL.US>
Subject: FW: Quick check on fiscal for the strike-all to SB 676, please?

Here you go. Thanks.
Pace can you take care of this

Sent from my iPhone

On Mar 20, 2019, at 10:38 AM, Langston, Jennifer <JenniferLangston@flhsmv.gov> wrote:

You ok with this?

From: Price, Cindy <PRICE.CINDY@fisenate.gov>
Sent: Wednesday, March 20, 2019 10:35 AM
To: Langston, Jennifer <JenniferLangston@flhsmv.gov>; Jacobs, Kevin <KevinJacobs@flhsmv.gov>
Subject: [EXT] Quick check on fiscal for the strike-all to SB 676, please?

Hi, Jennifer and Kevin: Pulled these fiscal comments from the CS/HB 475 staff analysis. I think the comments apply to the strike-all for SB 676, as well, and I just want to check to make sure I'm safe in using the same comments for the 676 strike:

DHSMV estimates an insignificant, but negative impact on the Marine Resource Conservation Trust Fund due to the elimination of the $1 recording of lien fee. In addition, DHSMV also estimates an insignificant, but positive impact in the Marine Resource Conservation Trust Fund due to the potential increase in the number of transactions related to hull-damaged vessel titling. The number of additional title transactions is unknown.

The bill will require DHSMV to implement changes to vessel titling procedures and databases. However, with a delayed effective date of July 1, 2022, DHSMV can incorporate the required changes utilizing existing resources. (Of course, in the 676 strike, the effective date is July 1, 2023.)

To the extent the bill results in additional vessel titling transactions, Tax Collectors could experience an insignificant increase in title application fees. Tax Collectors retain $3.75 for new and duplicate titles transactions. In addition, Tax Collectors may collect a service charge of $2.25 per visit. The number of additional title transactions is unknown.

Thanks!

Cindy

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.
Jennifer:

Having an approved Title IV-D State Plan is a condition of receiving federal IV-D funding (66% match rate) and a condition of the state’s Title IV-A TANF Block Grant. Failure to have an approved Title IV-D State Plan would result in the state’s ineligibility to receive Title IV-D matching funds and federal performance incentives as these funds are only available to carry out an approved state plan. The Child Support Program’s State Fiscal Year 2017-18 appropriations for these funds are $156.7 million and $33.5 million respectively.

As previously noted, failure to comply with Title IV-D requirements results in a penalty to the Title IV-A TANF (Temporary Assistance to Needy Families) grant. For the first year of non-compliance, the penalty is 1-2% of TANF funds; for the second year, the penalty is 2-3 % of TANF funds and for the third and subsequent years, the penalty is 3-5% of the amounts otherwise payable to the state. Florida’s TANF Grant is $559.1 million for FFY 2017/18. The penalty would be applied to all or part of the grant.

Lastly, the Department would have the opportunity to correct the noncompliance before penalties were enforced.

Please let me know if you need additional information.

Thank you,
Debbie

Debra Longman, Director
Office of Legislative and Cabinet Services
Department of Revenue
(850) 717-7422
Debbie.Longman@floridarevenue.com

Hi Debbie!

Is there a number that you could give me to use that would the potential loss of federal funds if we were found out of compliance?

I tried to find the federal law and it looked to me like it was loss or they’d charge a penalty. And I figure this is like UC where you get like a year or more to comply.
But anyway, just a big giant number will satisfy the people asking me

Thanks!
Jennifer

Jennifer Hrdlicka
Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee

Sent while away from my office.

-------- Original message --------
From: Debbie Longman <Debbie.Longman@floridarevenue.com>
Date: 4/1/19 11:29 AM (GMT-05:00)
To: "Hrdlicka, Jennifer" <Jennifer.Hrdlicka@LASPBS.STATE.FL.US>
Subject: CS/SB 676

Good speaking with you earlier. Attached is a draft amendment that would address the child support issue we spoke about. It’s identical to what was added to the companion, CS/HB 475.

Hope we can work out dinner this weekend. Hang in there, nearly halfway!

Debbie

Debra Longman, Director
Office of Legislative and Cabinet Services
Department of Revenue
(850) 717-7422
Debbie.Longman@floridarevenue.com

NOTIFICATION TO RECIPIENTS: The subject line of this email may indicate that this email has been sent unsecure. This is a default setting which in no way indicates that this communication is unsafe, but rather that the email has been sent unencrypted in clear text form. Revenue does provide secure email exchange. Please contact us if you need to exchange confidential information electronically.

If you have received this email in error, please notify us immediately by return email. If you receive a Florida Department of Revenue communication that contains personal or confidential information, and you are not the intended recipient, you are prohibited from using the information in any way. All record of any such communication (electronic or otherwise) should be destroyed in its entirety.

Cautions on corresponding with Revenue by email: Under Florida law, emails received by a state agency are public records. Both the message and the email address it was sent from (excepting any information that is exempt from disclosure under state law) may be released in response to a public records request.

Internet email is not secure and may be viewed by someone other than the person you send it to. Please do not include your social security number, federal employer identification number, or other sensitive information in an email to us.
NOTIFICATION TO RECIPIENTS: The subject line of this email may indicate that this email has been sent unsecure. This is a default setting which in no way indicates that this communication is unsafe, but rather that the email has been sent unencrypted in clear text form. Revenue does provide secure email exchange. Please contact us if you need to exchange confidential information electronically.

If you have received this email in error, please notify us immediately by return email. If you receive a Florida Department of Revenue communication that contains personal or confidential information, and you are not the intended recipient, you are prohibited from using the information in any way. All record of any such communication (electronic or otherwise) should be destroyed in its entirety.

Cautions on corresponding with Revenue by email: Under Florida law, emails received by a state agency are public records. Both the message and the email address it was sent from (excepting any information that is exempt from disclosure under state law) may be released in response to a public records request.

Internet email is not secure and may be viewed by someone other than the person you send it to. Please do not include your social security number, federal employer identification number, or other sensitive information in an email to us.
I. **Summary:**

CS/CS/SB 892 is a comprehensive amendment to the Florida Business Corporation Act (FBCA), ch. 607, F.S. Representatives of the Florida Bar’s Business Law Section recommend these revisions to modernize the FBCA, incorporate updates from the Model Business Corporation Act (Model Act), and harmonize the FBCA with the recently updated Florida Revised Limited Liability Corporate Act (FRLLCA), ch. 605, F.S.

The bill modifies and creates several provisions regarding corporate governance. Significantly, these provisions of the bill:

- Modify the process for the correction of documents filed by a corporation;
- Authorize articles of incorporation and bylaws to include exclusive forum provisions in limited circumstances;
- Permit proxy access provisions in a corporation’s bylaws;
- Modernize service of process provisions for corporations;
- Allow remote participation at shareholder meetings;
- Modify how a vacancy on a corporation’s board of directors is filled;
- Update provisions regarding shareholder agreements;
- Clarify the prescribed composition, operation, and authority of boards and committees;
- Reorganize sections regarding derivative action and indemnification;
- Amend burdens of proof in provisions regarding director conflict of interest;
• Modify the processes of judicial dissolution of a corporation and appointment of receivers and custodians made in the process thereof;
• Update and modernize laws regarding mergers, share exchanges, and conversions;
• Expand corporate domestication under additional circumstances;
• Clarify appraisal rights provisions; and
• Make conforming changes to mirror the FRLLCA provisions regarding corporate names, registered agent appointments and successorships, and qualifications to transact business in Florida.

The bill has a minimal fiscal impact to the Department of State.

The bill takes effect on January 1, 2020.

II. Present Situation:

Florida generally follows the revised Model Act as a basis for its laws that govern for-profit corporations.1 The Corporate Laws Committee of the American Bar Association’s Business Law Section (ABA) promulgates the Model Act, and most recently re-worked the Model Act in its entirety in 2016.2 The Florida Business Corporation Act (FBCA)3 was last updated as a whole in 1989, and therefore does not best reflect the modern state of corporate law.4

Further discussion of the present situation is discussed below in conjunction with the Effect of Proposed Changes.

III. Effect of Proposed Changes:

The bill’s proposed changes to the FBCA generally derive from or conform to three sources: (1) The ABA’s Model Act.5 (2) The Delaware General Corporation Law.6 (3) Florida’s Revised Limited Liability Company Act, ch. 605, F.S.7

Filing of Records and General Provisions (Sections 1-15)

The FBCA requires domestic and foreign corporations that seek to transact business in Florida to register and file annual reports and other notices with the Department of State (department). These documents must be executed by an officer, incorporator, or fiduciary and contain

---

3 Section 607.0101, F.S. (providing for short title); ch. 607, F.S.
4 Ch. 89-154, Laws of Fla.
5 See n. 2, supra.
6 Delaware’s corporate law statutes are considered the “gold standard” for corporate law. See generally Michael B. Dorff, Why Public Benefit Corporations?, 42 DEL. J. CORP. L. 77, 80 (2017) (“Delaware has found a formula that has attracted a clear majority of the major corporations in the U.S. Delaware law is the gold standard.”) (footnote omitted).
7 The Florida Bar Business Law Section, Proposed Modifications to Chapter 607 (Florida Business Corporation Act), Jan. 24, 2019 (on file with Senate Judiciary Committee).
information as prescribed by law. The department determines whether submitted filings and forms meet the pertinent statutory requirements and then records and indexes those filings in its database of records.\(^8\) If the department refuses to file a document, the filing corporation may seek to remedy the defect, or may appeal the matter to a court of competent jurisdiction.

**Section 1** amends s. 607.0101, F.S., to divide the FBCA into three parts and clarifies that the provisions of Part I, ch. 607, F.S., apply generally to all corporations, including social purpose and benefit corporations.\(^9\)

**Section 3** amends s. 607.0120, F.S., to allow a corporation to make its articles of incorporation or amendments thereto, terms of shares, mergers, share exchanges, domestications, or conversion transactions dependent on extrinsic facts.\(^10\) The corporation must state both the fact and the effect it will have on the document. This section prohibits specific terms from being made dependent on extrinsic facts, including the identity of a corporation’s registered agent and the effective date of a document.

**Section 6** amends s. 607.0123, F.S., to clarify the determination of the effective date and effective time a document is filed, as follows:

- A corporation may make the effective date of its initial article of incorporation retroactive up to five business days before the date of filing;
- No document, subject to provisions otherwise in law, may include a delayed effective date of more than 90 days from the date of filing;
- The default effective time of a document is changed from the “start of business” to “12:01 am;” and
- The default time zone is that of the location where the document was filed.

**Section 7** also creates a process for the withdrawal of a filing delivered to the department. This withdrawal statement must be signed by or, pursuant to an agreement, signed on behalf of each person who signed the underlying document and must be filed with the department prior to the effective date of the document to be withdrawn. A withdrawal statement may not be filed with a delayed effective date.

---


\(^9\) Parts II and III contain additional provisions that specifically apply to social purpose corporations, s. 607.504, F.S., and benefit corporations, s. 607.604, F.S., respectively. The changes to Parts II and III are technical, conforming changes. *See* discussion of bill sections 231-291, infra.

\(^10\) Extrinsic facts refer to information available from credible public sources upon which terms in the filed document or plan may be dependent. *See* ABA, *Model Business Corporation Act* (2016), p. 5, available at [https://www.americanbar.org/content/dam/aba/administrative/business_law/corplaws/2016_mbca.pdf](https://www.americanbar.org/content/dam/aba/administrative/business_law/corplaws/2016_mbca.pdf) (last visited Mar. 27, 2019). “Common examples” of extrinsic facts “are references to an interest rate such as the federal funds rate or to securities market prices.” *Id.* The Commentary to the Model Act notes that the purpose for changes to the filing requirements “are intended to minimize both the number of documents to be processed by the secretary of state and the number of disputes between persons seeking to file documents and the secretary of state as to the legal efficacy of documents.” *Id.* However, the bill does not permit a foreign corporation to make its certificate of authority dependent on extrinsic facts.
Section 7 eliminates the 30-day statute of limitations to correct a document filed by a corporation. A corporation may now correct a document at any time.\footnote{However, the bill retains the provision that filing fees may apply to articles of correction not filed within 15 days after the notice of filing was sent.}

Section 8 amends s. 607.0125, F.S., to clarify that the department files a document by “stamping or otherwise endorsing the document as filed.” Prior law only required to the department to “record it as filed” Additionally, the section permits the department to send a notice of filing by electronic mail, but limits the department to sending a copy of the actual filed document through the U.S. mail.

Section 9 amends s. 607.0126, F.S., to limit a corporation’s venue for appeal of the department’s refusal to file a document to the Leon County Circuit Court. Previously, a corporation could pursue an appeal in either Leon County or the county in which its principal office is located. Additionally, section 9 eliminates the 30-day statute of limitations for appealing the department’s refusal to file a document.

Section 10 amends s. 607.0127, F.S., to require that certified copies of documents bear the secretary of state’s signature in either original or facsimile form, and bear the state seal. Prior language did not require any specific mark. This section adds language that requires certificates issued by the department to be received by all courts, public offices, and official bodies as prima facie evidence of the facts stated therein.

Section 11 addresses a certificate of status which is a summary prepared by the department about a corporation’s activity, especially related to timely reporting and payment of fees. Section 11 amends s. 607.0128, F.S., to clarify the information required on a certificate of status, and that the department may require the requisite fee to be paid prior to its issuance.

Section 12 amends s. 607.0130, F.S., to make a technical change that eliminates certain express powers of the department. The amendment does not, however, reduce the department’s authority or power to administer the act.

Sections 13 and 15 amend s. 607.01401, F.S., and create s. 607.01403, F.S., respectively, to add definitions for use in ch. 607, F.S., including the definition of “department,” which replaces the term “State” throughout the act when referring to the Florida Department of State.

Section 14 amends s. 607.0141, F.S., to permit electronic forms of notice, specifically requiring individual shareholder and director consent to send notice by e-mail. The section allows a corporation’s articles of incorporation or bylaws to override the consent requirement for electronic notice to directors only. Additionally, the bill incorporates terms from the federal “E-Sign Act”\footnote{See 15 U.S.C. s. 7001, et seq. (“Electronic Signatures in Global and National Commerce Act”).} and requires that the act will control to the extent permitted under federal law.\footnote{15 U.S.C. s. 7002(a)(2) (exempting from federal preemption state laws that expressly adopt and modify, limit, or supersede the “E-sign Act.”).}

Section 15 defines “qualified director,” which is used in updated provisions relating to derivative actions, transactions that involve a director conflict of interest, and indemnification. A qualified
director is one who has neither a material interest nor relationship with any of the interests at issue, and therefore is truly independent in his or her determinations.

Sections 2, 4, and 5 make conforming changes to ss. 607.0102, 607.0121, and 607.0122, F.S., respectively.

Incorporation (Sections 16-23)

A corporation must file articles of incorporation with the department before it may transact business in the state. Generally, s. 607.0202, F.S., requires articles of incorporation to include the corporation’s name and address, the number of shares it is authorized to issue, and information about the registered agent.

Section 19 amends s. 607.0204, F.S., to hold persons liable who act or transact business on behalf of a corporation “knowing” that the corporation has not yet been formed under the act. The term “knowing” replaces “having actual knowledge” and may be read by the courts more broadly to hold someone liable if he or she “knew or should have known” the corporation was not yet incorporated. Section 19 also repeals the liability exemption for others having actual knowledge that the corporation had not yet been formed.

Section 20 amends s. 607.0205, F.S., to reduce the amount of time (from 3 to 2 days before the meeting) that a director must receive notice of a corporation’s organizational meeting.

Sections 17 and 21 amend ss. 607.0202 and 607.0206, F.S., and section 23 creates s. 607.0208, F.S., to allow articles of incorporation and bylaws to include exclusive forum provisions relating to the resolution of internal corporate claims. However, section 23 prohibits articles of incorporation or bylaws from including forced arbitration clauses relating to the resolution of an internal corporate claim.

Sections 17 and 21 limit the adoption of articles of incorporation and bylaws provisions that make shareholders liable for fees related to internal corporate claims they institute or participate in. However, section 71, infra, amends s. 607.0732, F.S., to allow such provisions pursuant to a shareholder agreement.

Section 21 continues to allow a corporation to include any provision in its bylaws that is consistent with law and its articles of incorporation, but now explicitly allows provisions that permit or limit proxy access provisions.

Section 23 creates s. 607.0208, F.S., which defines an “internal corporate claim” as:

- Any claim based on a director’s, officer’s, or shareholder’s violation of duty;
- Any derivative action or proceeding brought on the corporation’s behalf;
- Any action that asserts a claim arising pursuant to the articles of incorporation, bylaws, or ch. 607, F.S.; or

14 BLACK’S LAW DICTIONARY (10th ed. 2014) (defining “forum” in applicable part as “[a] court or other judicial body; a place of jurisdiction.”).
• Any action asserting a claim governed by the internal affairs doctrine not otherwise included in the forgoing actions.

**Sections 16, 18, and 22** amend ss. 607.0201, 607.0203, and 607.0207, F.S., to make clarifying and conforming changes that do not substantively change existing law.

**Purposes and Powers (Sections 24-27)**

**Section 24** amends s. 607.0301, F.S., to set a default corporate purpose of “engaging in any lawful business” unless a more limited purpose is stated in a corporation’s articles of incorporation. It also limits corporations that engage in a regulated business under another Florida statute from incorporating under ch. 607, F.S., unless the underlying regulating chapter expressly permits.

**Section 27** amends s. 607.0304, F.S., to correct a term, replacing “Attorney General” with “Department of Legal Affairs.” The title has also been changed to mirror the ABA model act.

**Sections 25 and 26** amend ss. 607.0302 and 607.0303, F.S., to make clarifying and conforming changes that do not substantively change existing law.

**Corporate Names (Sections 28-30)**

Section 607.0401, F.S., requires corporations to file a corporate name that is distinguishable and clearly indicates that the corporation is not a natural person.

**Section 28** amends s. 607.0401, F.S., to permit corporations to register under a name that is indistinguishable from another entity’s name if it files the written consent of the similarly named entity with its registration.

**Section 29** creates s. 607.04021, F.S., to restore a practice that allows a corporation to reserve its name for 120 days prior to its incorporation.\(^\text{15}\) The owner of a reserved corporate name is also permitted to transfer the reservation to another person.

**Section 30** amends s. 607.0403, F.S., to make clarifying and conforming changes that do not substantively change existing law.

**Office and Agent (Sections 31-37)**

A corporation transacting business in Florida must designate and maintain a registered agent and registered office that is located in Florida.\(^\text{16}\) Currently, either a Florida resident or a corporation authorized to do business in Florida may serve as a corporation’s registered agent. **Section 31** updates these qualifications in s. 607.0501, F.S., to allow any business entity (e.g., LLCs, partnerships, etc.) authorized to do business in Florida to serve as a registered agent.

\(^{15}\) Chapter 98-101, s. 15, Laws of Fla., repealing s. 607.0402, F.S.

\(^{16}\) Section 607.0501, F.S.
Section 31 also explicitly provides a registered agent’s duties, including forwarding documents served to the corporation and providing proper notice of its resignation as the registered agent. This section also clarifies that a corporation that has failed to comply with this subsection may defend itself in Florida court actions, but may not prosecute or otherwise maintain such actions until it has appointed a registered agent.

Section 32 amends s. 607.0502, F.S., to require a corporation’s designation of a successor registered agent to include a written statement of acceptance from the successor registered agent which operates to designate the new registered agent at the same moment of its acceptance of the position.

Sections 33 and 34 create ss. 607.0503 and 607.05031, F.S., to re-designate current law regarding a registered agent’s resignation\(^\text{17}\) or change of name or address,\(^\text{18}\) respectively.

Section 35 creates s. 607.05032, F.S., to subject delivery of notice to the department to a different standard than the standard set forth in s. 607.0141, F.S. (providing that receipt of notice is when notice is actually received by the department). Under s. 607.05032, F.S., a check sent to the department for annual report or supplemental fees is deemed received as of the postmark on the transmitting envelope or package.

Section 36 amends s. 607.0504, F.S., to update methods of service of process for corporations in the event the corporation ceases to have a registered agent or the registered agent cannot be served, requiring attempts to be made on certain parties before others may be served.

Section 37 makes a clarifying change in s. 607.0505, F.S., that does not substantively affect existing law.

Shares and Distribution (Sections 38-51)

A corporation’s articles of incorporation must prescribe the classes of shares and the number of each class that the corporation is authorized to issue.\(^\text{19}\) At least one class of shares must have unlimited voting rights, and one (which may be the same as the voting class) that is entitled to the corporation’s net assets. The corporation may issue the number of shares as detailed in its articles of incorporation. Shareholder and corporate rights regarding the shares are laid out in statute, but may also be defined in the corporation’s articles of incorporation, bylaws, or agreement.

Section 38 amends s. 607.0601, F.S., to clarify that a corporation may define both series and classes of shares that the corporation will issue. This section also defines the preferences, limits, and rights assigned to classes or series of shares as “terms,” and, as in section 1, supra, permits such terms to be based on extrinsic facts, such as interest rates.

Sections 39 amends s. 607.0602, F.S., to grant boards authority to reclassify the class or series of any unissued shares, and to determine the shares’ terms without shareholder approval. Likewise,\(^\text{17}\) Section 607.0502(2), F.S. \(^\text{18}\) Section 607.0502(3), F.S. \(^\text{19}\) Section 607.0601, F.S.
\textbf{section 50} amends s. 607.0631, F.S., to allow a board, without shareholder approval, to reacquire its issued shares in order to effectuate a reduction in its overall shares. However, any shares the corporation holds in a fiduciary capacity for the benefit of another may not be considered the corporation’s property for the purpose of reducing its number of shares.

\textbf{Section 40} repeals requirements in s. 607.0604, F.S., that the board authorize the issuance of a scrip\footnote{BLACK’S LAW DICTIONARY (10th ed. 2014) (defining a “scrip issue” as synonymous with a “bonus issue”; defining a “bonus issue” as a corporation’s “offer of free shares to existing shareholders, usually in proportion to their holdings and especially as an alternative to dividend payout.”).} only when considered desirable, and that the board’s good faith judgment of the fair value of fractions of a share is conclusive.

\textbf{Section 41} amends the duration of time provided for in s. 607.0620, F.S., that a corporation must wait to sell shares to satisfy the debt incurred as the result of a subscription share from 20 days after demand is sent to 20 days after its delivery.

\textbf{Section 45} amends s. 607.0624, F.S., to authorize boards of directors to delegate to committees and officers the ability to issue equity compensation awards.

\textbf{Section 51} amends s. 607.06401, F.S., to clarify that a board may fix a record date to determine shareholders eligible for distributions made pursuant to the terms of their shares, but that date may not be retroactive. Additionally, this section excludes liquidations pursuant to ss. 607.1401-607.14401, F.S., from its application.

\textbf{Sections 42-44 and 46-49} make clarifying changes to ss. 607.0621, 607.0622, 607.0623 and 607.0625, 607.0626, 607.0627, 607.0630, F.S., respectively, that do not substantively affect existing law.

\textbf{Shareholders (Sections 52-81)}

\textit{Shareholder Meetings}

Corporations are required to hold an annual shareholders meeting to elect directors and transact business. A board of directors, persons authorized to call such a meeting, or a specified percentage of shareholders may call a special meeting for an express, limited purpose.

\textbf{Sections 52 and 53} amend ss. 607.0701 and 607.0702, F.S., respectively, to clarify that shareholders may participate in meetings by remote communication. Additionally, portions of existing ss. 607.0701 and 607.0702, F.S. were moved to \textbf{section 59}, which creates s. 607.0709, F.S., and outlines limits on participation in a meeting by remote communication. \textbf{Section 56} amends s. 607.0705, F.S., to require a corporation’s board of directors to give notice of the types of remote communication that a shareholder can use to participate in a meeting.

If a corporation fails to hold an annual or special meeting in a timely manner, a court may order a meeting. \textbf{Section 54} amends s. 607.0703, F.S., to lengthen from 13 to 15 months the amount of time a corporation has to hold its annual meeting or undertake action by written consent before a
court may order a meeting or other action. Section 54 also recognizes a court’s ability to establish quorum requirements for separate voting groups at a meeting held upon its call.

Sections 56 and 57 make clarifying changes to ss. 607.0705 and 607.0706, F.S., respectively, that do not substantively affect existing law.

Voting Rights

Current law allows certain shareholders to instigate a vote by written consent. If the shareholders deliver a sufficient number of votes by written consent to the corporation within a 60-day timeframe, the matter is adopted and the corporation must give notice of the action to all shareholders who did not give written consent. Section 55 updates s. 607.0704, F.S., to allow a corporation to delay the effectiveness of a written consent vote for a reasonable time to allow it to count the votes delivered by written consent, and also clarifies that a corporation’s failure to give notice of the outcome of a written consent vote does not affect the vote’s outcome.

A corporation must compile a list of shareholders eligible to participate in the corporation’s meetings on the record date at a fixed period prior to the meeting. Any shareholder may inspect and copy this list.

Section 58 amends s. 607.0707, F.S., to expressly allow a corporation’s bylaws to establish more than one record date, or bifurcated record dates, to establish separate issues, e.g., which shareholders may vote at or are entitled notice to a meeting, who may demand a special meeting, or who may take other specified actions. This section also sets certain default record dates if the corporation does not establish them in their bylaws.

Sections 59 creates s. 607.0709, F.S., and Section 60 amends s. 607.0720, F.S., to adopt language to further implement bifurcated record dates, explicitly exclude shareholders’ electronic mail addresses from the shareholder list, and repeal a required $5,000 civil penalty for the improper sale or distribution of a shareholder’s list. The Florida Bar Business Law Section’s commentary on the proposed bill states that the removal of the required penalty gives courts judicial discretion in determining a penalty for improper disclosure of the shareholder list. 21

A shareholder with voting shares is entitled to at least one vote per share on matters that are subject to a vote. However, if a corporation holds its own shares indirectly through a second corporation that it controls, those shares do not entitle their corporation owner to a vote. Section 61 amends s. 607.0721, F.S., to further preclude a corporation from using shares it owns either directly or indirectly as a source of voting rights.

Section 63 clarifies by amendment to s. 607.0723, F.S., the process required to create a beneficial ownership certificate, which is a designation of a third party who is treated as the record shareholder when the shares are actually held by an intermediate party. Specifically, the section requires a beneficial ownership certificate to be signed by or assented to by the record shareholder and the person on behalf of whom the shares are held.

21 See n. 7, Supra.
Section 68 creates inspectors of election in s. 607.0729, F.S. A public corporation must, and any other corporation may, appoint one or more inspectors of elections to determine voting results at shareholder meetings. An inspector of elections generally determines the validity and number of votes cast and makes a written report. The inspector must be strictly impartial, and should the inspector’s activities be challenged, determinations of law by an inspector are reviewed by the court de novo. Section 64 incorporates the role of an inspector of elections in s. 607.0724, F.S., and expands corporations’ or inspector of elections’ scope of scrutiny to include ballots and shareholder demands in addition to votes, consents, waivers, or proxy appointments. Determinations by an inspector of election are controlling under this section.

Sections 70 and 71 amend ss. 607.0731 and 607.0732, F.S., to distinguish voting agreements from shareholder agreements. A voting agreement is one between shareholders that provides how they will vote on a particular subject. A shareholder agreement is a written agreement among shareholders regarding specific matters outlined in s. 607.0732(1), F.S. This bill expands matters that may be subject to a shareholder agreement to include the:
- Imposition of shareholder liability for participation in an internal corporate claim; and
- Establishment of a mechanism for breaking deadlock between the corporation’s directors or shareholders or to address an oppressive action that a shareholder in a judicial dissolution proceeding asserts to exist.

Section 67 amends the definition of a public company in s. 607.0728, F.S., to mean corporations with shares registered pursuant to section 12 of the Securities Exchange Act of 1934, rather than corporations with shares listed on the national securities exchange. Section 71 amends s. 607.0732(4), F.S., to make a conforming reference, providing that shareholder agreements cease to be valid when shares of a corporation are registered pursuant to section 12 of the Securities Exchange Act of 1934, rather than when listed on the national securities exchange or other national securities association.

Sections 62, 65, 66, and 69 make clarifying changes to ss. 607.0722, 607.0725, 607.0726, and 607.0730, F.S., that do not substantively affect existing law.

Derivative Actions

A shareholder derivative action is a proceeding brought by a shareholder on behalf of a corporation to assert a claim that the corporation has not (or will not) itself raise and prosecute. Under current Florida law, s. 607.07401(2), F.S., a shareholder may not pursue a derivative action in court before he or she demands that the corporation take specific action and permits the corporation 90 days to investigate and respond, unless irreparable injury to the corporation would result from waiting 90 days. If the corporation refuses to act, or ignores the shareholder’s demand for at least 90 days, then the shareholder may file a complaint, initiating a lawsuit.

Section 72 repeals s. 607.07401, F.S., which is currently the single statutory section governing shareholders’ derivative actions. However, sections 73-79 break out the substance of s. 607.07401, F.S., and divides its procedural aspects among seven newly created statutory provisions, conforming it to the ABA Model Act. These procedural aspects, respectively, are:

22 Deborah DeMott, Shareholder Derivative Actions: Law and Practice, s. 1:1 (Nov. 2018).
(1) standing, s. 607.0741, F.S.; (2) pleading requirements, s. 607.0742, F.S.; (3) stay of proceedings, s. 607.0743, F.S.; (4) dismissal of action, s. 607.0744, F.S.; (5) discontinuance or settlement, s. 607.0745, F.S.; (6) proceeds and expenses following termination of action, s. 607.0746, F.S.; and (7) applicability to foreign corporations, s. 607.0747, F.S.

In section 74 creating s. 607.0742, F.S., the pleading requirements for a shareholder’s derivative action are expanded. The shareholder may initiate a derivative action without waiting 90 days for the corporation to respond to his or her demand if the shareholder alleges with particularity that irreparable injury to the corporation would result from waiting the 90 days, or that misapplication or waste of corporate assets causing material injury to the corporation would result by waiting the 90 days. Further, the shareholder may initiate a derivative action without first making a demand when the shareholder alleges with particularity the reasons the demand was not made, i.e., a demand would have been futile.

Additionally, sections 73-79:

- Remove the requirement that a shareholder maintain his or her shares in the corporation during the entirety of the derivative action that the shareholder initiated (Section 73);
- Replace the term “independent director” with “qualified director,” which is defined in s. 607.0143(a), F.S., in section 15 of the bill, as a director who has neither a material interest in the outcome of the proceeding, nor a material relationship with a person who has a material interest in the proceeding (Section 76);
- Permit a court to order the plaintiff in a derivative action to pay the defendant’s expenses and attorney fees if the court finds that the plaintiff began or maintained the action without reasonable cause or for an improper purpose; (Section 78) and
- In order not to implicate the internal affairs doctrine,23 provide that a derivative proceeding may be filed on behalf of a foreign corporation but the procedural matters outlined in ss. 607.0743 (stays), 607.0745 (discontinuance or settlement), and 607.0746, F.S. (proceeds and expenses), are governed by the substantive laws of the jurisdiction where the foreign corporation is incorporated (Section 79).

Alternatives to Judicial Dissolution

When harm is threatened to or incurred by a corporation as a result of either (1) a deadlock between its directors or (2) a director’s fraudulent activity, a shareholder may petition a court to appoint a receiver or custodian to manage the corporation’s business and affairs. However, a shareholder’s only procedural option under current law for the appointment of a receiver or custodian in these two situations, or to appoint a provisional director in the case of deadlock between the directors, is to seek judicial dissolution of the corporation under s. 607.1430, F.S. Sections 80 and 81 create separate, alternative procedures to a judicial dissolution proceeding for the appointment of a custodian, receiver, or provisional director.

Specifically, section 80 creates s. 607.0748, F.S., establishing an alternative procedure to judicial dissolution when one of the two situations above arises (injury resulting from deadlock between directors or director fraud). Section 607.0748, F.S., authorizes a court to appoint a receiver or custodian to manage a corporation’s business and other affairs when a shareholder establishes

---

23 “The internal affairs doctrine is a conflict of laws principle which recognizes that only one State should have the authority to regulate a corporation’s internal affairs[.]” Edgar v. Mite Corp, 457 U.S. 624, 645 (1982).
one of these two situations during a full, properly noticed hearing. If the court appoints a
custodian or receiver or both, it must specify the powers of each in its order. A custodian
exercises all powers of the corporation in place of the board of directors; whereas a receiver may
dispose of corporate assets and defend or bring suit on the corporation’s behalf.

Similarly, section 81 creates s. 607.0749, F.S., establishing a separate, alternative procedure to
judicial dissolution, allowing a shareholder to petition a court to appoint a provisional director to
break a deadlock between the directors that cannot be broken by shareholder action. The court
has discretion to appoint an impartial provisional director who is neither a shareholder nor a
creditor of the corporation to report back to the court on the status of the deadlock. The
provisional director is vested with all the powers of an elected director, may be held liable as
would any other director under s. 607.0831, F.S., and is subject to removal by a shareholder vote
or court action.

Directors and Officers (Sections 82-114)

A corporation is managed by and subject to the oversight of its board of directors. Florida law
requires a director to be a natural person who is at least 18 years of age, but other qualifications,
if any, may be set by the corporation’s articles of incorporation or bylaws.

Section 83 clarifies s. 607.0802, F.S., to distinguish qualifications for nominees for directors
from qualifications for current directors and when newly prescribed qualifications apply.

Sections 86 and 87 amend ss. 607.0805 and 607.0806, F.S., respectively, to clarify the effect of
staggering directors’ terms of service and when a staggered term expires.

Section 90 creates s. 607.08081, F.S., to allow a court to remove a director and order other relief,
such as barring reelection of the director for a certain time, in a proceeding initiated by or on
behalf of a corporation. This remedy is limited to cases in which the court finds:

- The director acted fraudulently with respect to the corporation or its shareholders, grossly
  abused his or her position, or intentionally inflicted harm on the corporation; and
- Removal of the director is in the best interests of the corporation and other remedies are
  inadequate or unavailable.

Section 91 modifies s. 607.0809, F.S., governing how vacancies created by directors who were
elected by a particular voting group will be filled. Section 607.0809(2), F.S., provides that when
a particular director is to be elected by a particular voting group, any remaining directors elected
by that particular voting group will vote to fill the vacancy; if there are no remaining directors,
then only the shareholders in that voting group will vote to fill the vacancy.

A board of directors or members of a committee may act without meeting, even if the action is
otherwise required to be taken at a meeting, by way of a written consent signed by all members
of the board or committee. Section 93 amends s. 607.0821, F.S., to clarify that a written consent
is only effective upon delivery to the corporation.

Section 94 amends s. 607.0823, F.S., to require a director who objects to holding the meeting or
to the business transacted at the meeting to both state an objection at the beginning of the
meeting and to refuse to vote on any action taken at the meeting. If the director fails to do both, his or her presence constitutes a waiver of notice of the meeting and of all objections to the date, time, place, or purpose of the meeting. Previously, a director was required only to register his or her objection at the beginning of the meeting.

Section 607.0825, F.S., currently allows a board of directors to delegate many of its functions to a board committee. **Section 96** amends s. 607.0825, F.S., to permit a board committee to be comprised of one person rather than two (unless otherwise required by law or the corporation’s articles of incorporation or bylaws) and to allow the board to replace or fill any absent or disqualified committee members during his or her absence or disqualification. Additionally, the bill removes some of the restrictions on board committees and permits committees to issue or sell shares, or to designate a voting group’s rights, preferences, and limitations.

**Section 97** creates s. 607.0826, F.S., to authorize a board of directors to enter into an agreement that contains a “force the vote” provision. Such provisions, often used in merger agreements, require the board to submit a matter to a shareholder vote even if the board no longer wants to pursue or enter into the agreement.

**Sections 98 and 99** concern Florida’s business judgment rule. 24 **Section 98** amends s. 607.0830, F.S., to clarify a director’s fiduciary duties. Specifically, the prudent person standard of care is modified to require a director to act as an “ordinary prudent person in a like position would reasonably believe appropriate under similar circumstances.” This section expands guidance of whom a board member may rely upon in discharging his or her duties. **Section 99** makes mostly technical and conforming amendments to s. 607.0831, F.S., the business judgment rule, 25 but removes the limitation that decisions made or nonaction by directors must relate to “corporate management or policy.” This change potentially provides both a greater shield for the decisions of directors from liability, as well as a larger sword for holding them liable for self-interested decisions.

**Section 100** amends s. 607.0832, F.S., relating to a director’s conflict of interest. The bill retains the requirement that any director’s conflict of interest transaction must be fair to the corporation at the time authorized by the director to withstand challenge, but adds explicit definitions for “director’s conflict of interest transaction,” “fair to the corporation,” and other related terms. Additionally, the bill creates a shifting burden of proof in challenges to the validity of a director’s conflict of transaction: approval by a disinterested majority of directors or shareholders who received advanced notice of the conflict places the burden on the person challenging the

24 The business judgment rule limits the liability of a corporate director by creating a limited presumption of correctness for their decisions. Aerospace Accessory Serv., Inc. v. Abiseid, 943 So. 2d 866, 867 (Fla. 3d DCA 2006) (noting that s. 607.0831, F.S., codifies the “business judgment rule”).

25 Id.

26 The bill defines a “director’s conflict of interest transaction” in s. 607.0832(1)(a), F.S., as “a transaction between a corporation and one or more of its directors, or another entity in which one or more of the corporation’s directors is directly or indirectly a party to the transaction, other than being an indirect party as a result of being a shareholder of the corporation, and has a direct or indirect material financial interest or other material interest.”

27 The bill defines the term “fair to the corporation” in s. 607.0832(1)(b), F.S., as a “transaction that, as a whole, is beneficial to the corporation and its shareholders, taking into appropriate account whether it is: (1) fair in terms of the director’s dealing with the corporation in connection with that transaction and (2) comparable to what might have been obtainable in an arm’s length transaction.”
transaction; however, the lack of any such approval places the burden on the person defending the transaction.

**Section 102** clarifies the statute of limitations for a director’s liability for unlawful distributions in s. 607.0834, F.S.

**Section 104** creates s. 607.08411, F.S., which provides standards of conduct for officers that parallel a director’s fiduciary duties. Generally, the bill requires an officer to act in good faith and in a manner the officer reasonably believes to be in the best interests of the corporation. This section requires an officer to report or inform superior officers or other appropriate persons within the corporation of (1) material information about the corporation’s affairs, and (2) actual or probable material violations of law that involve the corporation or actual or probable breaches of duty to the corporation. Lastly, this section creates guidance regarding those persons an officer may rely upon in reasonably discharging his or her duties.

**Sections 82, 84, 85, 88, 92, 95, 101, and 103** make clarifying changes or add clarifying language to ss. 607.0801, 607.0803, 607.0804, 607.0807, 607.0808, 607.0820, 607.0824, 607.0833, and 607.08401, F.S., which do not substantively affect existing law.

**Indemnification and Advancement of Expenses**

Indemnification is the duty to make good any loss, damage, or liability incurred by another. Florida law allows corporate directors, officers, employees, and agents who act in good faith and in a manner reasonably believed to be in the best interests of the corporation (and reasonably believed to be lawful) to be indemnified by the corporation.

**Sections 106-114** revises Florida’s current indemnification law, s. 607.0850, F.S., by relocating provisions to newly created sections, ss. 607.0851, 607.0852, 607.0853, 607.0854, 607.0855, 607.0857, 607.0858, and 607.0859, F.S. These sections also include the following changes:

- Excludes employees and agents from the indemnification provisions but specifies that a corporation may indemnify its employees or agents under agency law or in its articles of incorporation, bylaws, or other agreement (Section 113);
- Establishes a process for the board of directors to determine whether and to what extent an officer or director may be indemnified in connection with a proceeding by or in the right of the corporation (Section 107);
- Sets a new, broader standard for mandatory indemnification triggered when an officer or director involved in a proceeding in his or her official capacity is “wholly successful” in the action, whether based on a procedural defense or the merits, rather than just “successful on the merits” (Section 108);
- Outlines how an advancement of expenses is authorized by either the board of directors or shareholders (Section 109); and
- Clarifies a corporation’s ability to obligate itself to indemnify officers and directors, as well as employees and agents, above and beyond that required by law (Section 113).

---

28 BLACK’S LAW DICTIONARY, 837 (9th Ed. 2009).

29 Commentary to s. 8.52 of the Model Act provides that “A defendant is ‘wholly successful’ only if the entire proceeding is disposed of on a basis which does not involve a finding of liability.”
Section 105 makes clarifying changes to s. 607.0842, F.S., which do not substantively affect existing law.

Anti-Takeover Laws (Sections 115-116)

Florida’s affiliated transaction statute is intended to deter hostile takeovers. It protects minority shareholders in merger offers by ensuring that specific transactions are either approved by an appropriate number of disinterested directors or shareholders, or result in a fair price to all shareholders.30

Section 115 amends s. 607.0901, F.S., to define an “interested shareholder” as a person who owns 15 percent or more of a public corporation’s shares. This section requires any affiliated transaction with an interested shareholder receive approval from either disinterested directors or a supermajority vote of disinterested shareholders. If neither of the first two are possible, this section requires a fair price to be paid to shareholders in the transaction.

Section 115 also amends the definition of an affiliated transaction to include those that constitute the sale of 10 percent or more of the corporation’s assets, net income, or fair market value of the corporation’s outstanding shares.

Section 116 makes a conforming change in s. 607.0902, F.S., that does not substantively affect existing law.

Amendment of Articles of Incorporation and Bylaws (Sections 118-130)

A board of directors may amend the corporation’s articles of incorporation without shareholder approval in limited, usually administerial, circumstances. Section 118 amends s. 607.1002, F.S., to allow a board to make amendments that reflect a reduction in authorized shares and to delete an extinct class of shares when no shares of that class remain.

Section 119 repeals a provision in s. 607.10025, F.S., that permitted board approval of share splits or combinations without shareholder approval only in corporations with more than 35 shareholders. The effect is to now permit all corporations to take such action without shareholder approval.

Section 120 amends s. 607.1003, F.S., to require a full copy, as compared to the summary provided for in current law, of a proposed amendment to a corporation’s articles of incorporation to be provided to shareholders prior to their meeting for approval of the amendment.

Additionally, section 120 requires that a board must obtain written consent of all shareholders who will be subject to new interest holder liability as a result of the board’s amendment to the articles of incorporation. Section 126 amends s. 607.1009, F.S., which governs the effect of interest holder liability imposed as a result of amendment to articles of incorporation for both

parties who incurred new interest holder liability and those whose interest holder liability is affected.

**Section 130** creates s. 607.1023, F.S., to adopt language from the Model Act that provides a method of voting for directors, though a corporation must elect to be governed by this section in its bylaws for the section to have effect.

**Sections 117, 121-125, and 127-129** make clarifying or conforming changes to ss. 607.1001, 607.1004, 607.1005, 607.1006, 607.1007, 607.1008, and 607.1020, 607.1021, 607.1022, F.S., that do not substantively affect existing law.

**Mergers and Share Exchanges (Sections 131-146)**

**Section 131** makes several changes to s. 607.1101, F.S., to accommodate mergers of a domestic corporation with one or more domestic or foreign entities, or mergers of other entities into a domestic corporation.

Similarly, **section 132** expands language in s. 607.1102, F.S., regarding share exchanges to accommodate such transactions between a Florida corporation and a non-corporate domestic entity or a foreign entity. A share exchange is a method by which a corporation acquires the equity interests of an acquired entity in exchange for its own equity interest or other consideration. This results in the acquired entity being wholly owned by the acquiring entity, but continuing to exist as a distinct entity.\(^{31}\)

**Section 133** provides a clearer process under s. 607.1103, F.S., for shareholder approval of a merger or share exchange where a domestic corporation either is a party to the merger, or is the acquired entity in the share exchange.

This section also allows the newly formed entity’s articles of incorporation to eliminate or limit separate voting rights, except when:

- The merger or share exchange includes an amendment to the new corporation’s articles of incorporation that requires voting by separate groups or classes, and
- The transaction will not affect a substantive business combination.

A domestic corporation that acquires another in a share exchange is not required to seek its shareholders’ approval. Conversely, shareholders that do not have voting rights tied to their shares in a corporation that is acquired under a share exchange may not seek to vote on the plan.

**Section 134** creates provisions in s. 607.11035, F.S., that permit the merger of corporations without a shareholder vote if a tender offer is first made to shareholders and ultimately results in the offeror’s acquisition of a large enough interest in the corporation to satisfy the shareholder approval that would otherwise be required. This form of merger is often called a “two-step

---

merger.” In order to prevent predatory share devaluation of the shares held by (now minority) shareholders who did not sell in response to the tender offer, this section implements a guarantee that the unsold shares retain their right to receive the same payment offered in the initial tender offer after their shares have been converted to the stock of the new entity created as a result of the two-step merger.

Section 135 amends s. 607.1104, F.S., to subject mergers between a parent corporation and its subsidiary, or between a parent corporation’s two subsidiaries, to the general merger provisions in ss. 607.1101-607.1107, F.S. Additionally, a parent corporation must give notice of a successful merger to each of the subsidiary’s shareholders within 10 days of the merger’s effective date. This notice requirement replaces a provision that required the parent company to wait 30 days after it sent notice of the merger to shareholders to file its notice of merger with the department.

Section 137 provides for the formalization of articles of mergers and articles of share exchanges, the content required in the articles, the method of filing the articles with the department, and the effective date of the articles by amendment to s. 607.1105, F.S.

Section 138 amends s. 607.1106, F.S., to clarify the effect of mergers or share exchanges on domestic and foreign corporations, especially to accommodate the inclusion of non-corporate business entities and foreign corporations in these transactions. Section 138 addresses the merger’s or share exchange’s effect on its parties:

- Corporate existence;
- Property ownership;
- Debt obligations, other liabilities, and creditor rights;
- Ongoing proceedings;
- Articles of incorporation, bylaws, or organic rules; and
- Shareholders’ rights and interest holder liability.

Section 139 conforms s. 607.1107, F.S., regarding the abandonment of a merger or share exchange, to the Model Act by allowing a statement of abandonment that is signed by all the parties to result in an abandonment after articles of merger have been filed with the department, but before they have become effective. Section 607.1107, F.S., currently only permits abandonment before the articles have been filed with the department.

Section 136 amends s. 607.11045, F.S., to make clarifying and conforming changes.

Sections 140-146 repeal ss. 607.1108-607.1115, F.S., governing mergers and conversions. These subjects are re-organized and re-written by sections 131-139 (mergers, supra) and 152-157 (conversions, infra) of the bill.

---

Domestication (Sections 147-151)

Current law allows a non-U.S. corporation to become a Florida domestic corporation by the process of domestication. Section 147 creates s. 607.11920, F.S., to expand the types of domestications permitted in Florida to include in-bound domestications by foreign corporations and out-bound domestications by Florida corporations into foreign corporations. Specifically, this section allows Florida corporations to domesticate into foreign corporations organized in other U.S. states and foreign corporations organized in other U.S. states to become Florida domestic corporations, if the organic law of the foreign corporation allows it.

Sections 148-150 create ss. 607.11921, 607.11922, and 607.11923, F.S., to establish the formalization of a plan of domestication of a domestic corporation into a foreign jurisdiction, govern the effectiveness and contents of articles of domestication, and permit the amendment or abandonment of the plan under certain circumstances.

Section 151 creates s. 607.11924, F.S., to outline the effect of the domestication on the domesticating corporation, including the ultimate ownership of property, debt and other obligations, shares between the two corporations, ultimate locus of governance, and overall duties.

Conversions (Sections 152-157)

Section 152 creates s. 607.11930, F.S., to generally address all conversion actions (conversion of domestic corporations into domestic or foreign entities and domestic or foreign entities into domestic corporations), and require the adoption of a plan of conversion to effectuate such actions. Sections 153 and 154 create ss. 607.11931 and 607.11932, F.S., to outline the information required in a plan of conversion and the method of adoption of the plan of conversion by the subsumed corporation’s board of directors and shareholders. Additionally, Section 154 provides for notice requirements to shareholders of the subsumed corporation, shareholders affected by interest holder liability because of the conversion, and shareholders who may become a general partner of the converted partnership or limited partnership.

Sections 155 creates in s. 607.11933, F.S., the method for filing the articles of conversion and their effective date, as well as the effect of such filing on the business governance structure of the subsumed corporation or entity in. Section 157 more specifically addresses the transfer of property, debt, records and rules, and other specific rights or duties to the converted entity with the creation of s. 607.11935, F.S. Section 156 creates s. 607.11934, F.S., to allow a converting entity to amend or abandon its plan of conversion.

Sale of Assets (Sections 158-159)

A corporation may sell its assets in the regular course of business without approval by shareholders, unless otherwise required by its articles of incorporation. Section 158 amends s. 607.1201, F.S., to permit a corporation to distribute its assets pro rata to shareholders, without shareholder approval except when part of a dissolution. Section 159 amends s. 607.1202, F.S., to provide that if a board wishes to dispose of all, or substantially all, of its property not in the usual
course of business, then it must submit such proposal to a shareholder vote with a resolution that recommends the sale, unless specific factors apply.

**Appraisal Rights (Sections 160-173)**

Minority shareholders may choose to sell their shares in a corporation by asserting appraisal rights, which triggers a fair payout for their shares. This right is limited to situations where a material change in the relationship between the corporation and the shareholder is proposed, e.g., a merger or share exchange, and applies whether or not the shareholder has the right to vote on the proposed action.

**Section 160** defines “interested transaction” and related terms in s. 607.1301, F.S., for purposes of an appraisal of a corporation’s shares. This section also deletes language in s. 607.1301(5)(c), F.S., to clarify that an appraisal of fair value of a share should be determined without any discount for the share’s lack of marketability or minority status.

**Section 161** expands by amendment to s. 607.1302, F.S., the transactions pursuant to which a shareholder may exercise his or her appraisal rights to include conversion and domestication transactions. This section also updates definitions of public companies that are exempt from the exercise of shareholder appraisal rights.

**Section 163** amends s. 607.1320, F.S., which requires corporations to notify shareholders of proposed actions that trigger appraisal rights under s. 607.1302, F.S. Specifically, this section requires a statement of possible appraisal rights and appropriate law to be sent with notice of the meeting at which shareholder consent is solicited for specific transactions. If approval of a corporate action that would trigger appraisal rights is sought by written consent, then notice of the appraisal rights must be sent to any nonconsenting or nonvoting shareholders at least 10 days before the corporate action becomes effective. Additionally, this section requires the corporation to send pertinent financial documents to its shareholders with the notice of appraisal rights.

**Section 164** amends s. 607.1321, F.S., regarding a shareholder’s assertion of his or her appraisal rights. If a shareholder ultimately decides to assert appraisal rights, he or she must deliver notice of intent before the proposed transaction is effectuated and abstain from voting on the matter, as described in section 164 of the bill. Additionally, the bill dictates that a shareholder who wishes to assert appraisal rights pursuant to a proposed two-step merger in which there is no shareholder vote, can assert appraisal rights by delivery of his or her shares to the corporation with intent to demand payment if the transaction occurs and holding back any of his or her shares from the tender offer.

**Section 173** limits, via creation of s. 607.1340, F.S., a shareholder from challenging a corporate transaction under which he or she could have asserted appraisal rights, except on the basis of fraud, material misrepresentation, omission of fact, or illegal approval.

**Sections 162, 165-172** make clarifying and conforming changes to ss. 607.1303, 607.1322, 607.1323, 607.1324, 607.1326, 607.1330, 607.1331, 607.1332, and 607.1333, F.S., that do not substantively affect existing law.
Dissolution (Sections 174-195)

Sections 174-177 update ss. 607.1401-607.1404, F.S., which allow a corporation to dissolve at the action of its board and, if applicable, shareholders. The bill makes several conforming changes relating to the articles of dissolution a corporation must file to formalize the dissolution, and adds a grace period that allows the corporation to revoke its dissolution within 120 days of the effective date of its articles of dissolution.

Section 178 clarifies that a “dissolved corporation,” as defined in s. 607.1405, F.S., is one whose articles of dissolution are effective and includes a “successor entity” that may exist solely for the purpose of prosecuting and defending suits on behalf of the dissolved corporation. This permits the dissolved corporation to wind up and fully liquidate its assets in an appropriate manner. This section also adds language allowing a dissolved corporation to fix a new record date for purposes of liquidation of assets to its shareholders.

Section 179 updates the process for disposition of known claims against a dissolved corporation in s. 607.1406, F.S., requiring the dissolved corporation to give written notice to such claimants no later than 270 days before the date that is 3 years after the effect of the articles of dissolution. This section also removes contingent claims and those claims that are effective upon an event that may occur after dissolution from the definition of known claims that must receive notice from the dissolved corporation.

Sections 181 and 182 create new ss. 607.1408 and 607.1409, F.S., to provide for the enforcement of a claim against a dissolved corporation and for a procedure for handling unknown and contingent claims against a dissolved corporation.

Section 183 creates s. 607.1410, F.S., to add to a director’s duties the payment of claims and distribution of assets during a corporation’s dissolution or liquidation. This section also shields directors from liability against claims of breach of these duties if the corporation was properly dissolved.

Section 180 makes clarifying and conforming changes to s. 607.1407, F.S., that do not substantively affect existing law.

Administrative Dissolution

Sections 184-187 amend ss. 607.1420, 607.1421, 607.1422, and 607.1423, F.S., to add failure to pay a fee or penalty to the department as basis for the administrative dissolution of a corporation by the department. These sections also clarify that an administratively dissolved corporation may wind up its affairs and liquidate its assets. If a corporation wants to be reinstated pursuant to administrative dissolution, it may file the appropriate forms and fees with the department. The department may deny reinstatement and the corporation may appeal its denial to Leon County Circuit Court. Current law allows the corporation to file such a petition where the involved state agency or corporation resides.
Judicial Dissolution

A shareholder may request that a court dissolve a corporation in which he or she owns shares for several reasons ranging from fraud to ineffectiveness. Section 188 amends s. 607.1430, F.S., to add oppressive conduct by the corporation as grounds for dissolution, but limit it as a valid claim only for those who own at least 10 percent of the corporation’s outstanding shares. This section clarifies how a shareholder agreement alternative to judicial dissolution takes effect.

Section 189 amends s. 607.1431, F.S., to require a corporation defendant in a judicial dissolution proceeding to notify all shareholders, other than the petitioner of the proceeding, that they may avoid dissolution by electing to purchase the petitioner’s shares. This remedy exists in current law but the required notice is new. Section 192 grants, by amendment to s. 607.1434, F.S., a court in a judicial dissolution proceeding broader discretion to order remedies other than those outlined in statute to avoid dissolution.

Section 194 amends s. 607.1436, to require as a matter of public policy that a corporation that elects to purchase its shares instead of dissolving to follow through on that transaction and prohibit the corporation from ultimately dissolving to avoid the purchase.

Section 195 removes a requirement from s. 607.14401, F.S., that a dissolved corporation deposit funds owed to a missing or incompetent shareholder with the Department of Financial Services within 6 months of the final liquidating distribution.

Sections 190, 191, and 193 make clarifying and conforming changes to ss. 607.1432-607.1433, and 607.1435, F.S., that do not substantively affect existing law.

Foreign Corporations (Sections 196-216)

Foreign corporations operate under a certificate of authority issued by the department and like domestic corporations must notify the department of their registered agent, principal office, and other pertinent information. A foreign corporation must amend its certificate of authority to reflect any change in its operating document within 90 days of the occurrence. If a foreign corporation attempts to file for a certificate of authority under a name that is already in use by another business entity it must find a distinguishable alternative or, pursuant to changes made to s. 607.1506, F.S., in Section 202 it may register under a name that is not distinguishable with the written consent of the other entity.

Section 197 creates s. 607.15015, F.S., to clarify that a foreign corporation’s organic law governs its organization, internal affairs, and shareholders’ interest holder liability. Section 198 further provides by amendment to s. 607.1502, F.S., that a foreign corporation’s organic law applies when the corporation fails to have a certificate of authority to transact business in Florida and the Florida Secretary of State is the designated agent for the corporation should any unauthorized transactions occur in Florida.

Sections 203-206 amends or creates ss. 607.1507-607.15091, F.S., to parallel the requirements regarding a foreign corporation’s registered agent to those of a domestic corporation’s registered agent.
Sections 207 creates a new notice delivery requirement in s. 607.15092, F.S., to reflect electronic communication. Section 208 implements in s. 607.15101, F.S., a specific order for alternative service if a foreign corporation’s registered agent is unavailable for service.

Sections 210 and 211 create ss. 607.1521 and 607.1522, F.S., respectively, to specify that a converting, merging, or dissolving foreign corporation must give specific notice to the department of the transaction and the effect thereof on its certificate of authority.

Section 212 amends s. 607.1523, F.S., to grant the Florida Department of Legal Affairs authority to maintain an action to enjoin a foreign corporation from transacting business in violation of ch. 607, F.S.

Section 213 makes clarifying and conforming changes to s. 607.1530, F.S., and adopts the substance of s. 607.1531, F.S., which is deleted by Section 214.

Section 215 amends s. 607.15315, F.S., to permit the reinstatement of a foreign corporation’s certificate of authority following its revocation but removes as a basis for reinstatement that the grounds for revocation did not or no longer exist. Section 216 amends s. 607.1532, F.S., to designate Leon County Circuit Court as the proper venue for appeals of the department’s denial of a foreign corporation’s petition for reinstatement.

Records and Reports (Sections 217-224)

Section 217 replaces a corporation’s duty to “keep as permanent records” with a duty to “maintain” certain documents in s. 607.1601, F.S. This section is also updated to explicitly include financial statements and notices required under s. 607.0120(11), F.S., within the record of documents that a corporation must maintain.

Sections 218-221 amend ss. 607.1602-607.1605, F.S., to reduce the number of days a corporation has to produce certain records upon shareholder request from 15 to 5, and permit such production by electronic format. A new extension of a shareholder right to inspect corporate documents of a corporation’s subsidiary has been added. The bill further entitles a shareholder who must resort to court action to enforce his or her right of inspection to reimbursement of attorney fees and reasonable expenses expended in the proceeding. Lastly, these sections clarify a court’s right to impose reasonable confidentiality requirements on any court-ordered right to inspection and copy of a corporation’s documents.

Section 222 revises s. 607.1620, F.S., regarding the corporation’s requirement to provide financial statements and any related public accountant report or audit to its shareholders. Currently, a corporation must furnish shareholders with its annual financial report within 120 days of the close of each fiscal year. This section now requires a corporation to furnish such financial information to a shareholder within 5 days of his or her request. If the shareholder’s initial request so specifies, the corporation must also give notice to all other shareholders of the financial information’s availability. The corporation may provide the requested documents by posting them on its website, place reasonable confidentiality restrictions on their distribution, and decline the request if the corporation determines that it was made in bad faith or for an improper purpose.
A shareholder may enforce his or her right to review the corporation’s financial documents in a circuit court in the applicable county. The corporation has the burden of demonstrating that its refusal to furnish its financial documents to a shareholder and its restrictions placed on the distribution of its financial documents are reasonable or made in good faith. Reimbursement of attorney fees and costs is available to a prevailing shareholder in these proceedings.

Section 223 deletes s. 607.1621, F.S., which requires a corporation to notify shareholders when it provides indemnification or an advance of funds to any director, officer, employee, or agent.

Section 224 makes conforming changes to the corporate annual reporting requirements in s. 607.1622, F.S. This section also:

- Removes a requirement that the corporation include in its annual report language permitting a voluntary contribution to be transferred into the Election Campaign Financing Trust Fund;
- Deletes a provision requiring each report to be executed by a corporate officer or director;
- Clarifies the effect of multiple submissions of an annual report in one year—that any subsequent is treated as an amended report for that calendar year;
- Confirms the corporation’s right to defend itself in an action in this state but re-asserts that it may not prosecute or maintain an action if it has failed to timely file an annual report and related fees; and
- Requires as a condition of merger, conversion, share exchange, or domestication of any corporation active under ch. 607, F.S., that the corporation is active and current in its filings with the department.

Sections 196, 199-201, and 209 make clarifying and conforming changes to ss. 607.1501, 607.1503-607.1505, and 607.1520, F.S., that do not substantively affect existing law.

Miscellaneous

The bill makes several changes throughout, including:

- Updating the language used to identify public companies from those “listed on a national securities exchange” to those “registered pursuant to s. 12 of the Securities Act of 1934;”
- Replacing “act” with “chapter” to refer to the FBCA, ch. 607, F.S.;
- Replacing “executed” with “signed;”
- Ensuring the consistent use of “department” to refer to the Florida Department of State; and
- Including Limited Liability Companies as a type of eligible entity throughout the chapter.

Sections 225 and 226 provide that ch. 607, F.S., applies to all corporations registered or authorized to do business in Florida on January 1, 2020. Section 229 is a savings provision that permits any pending action, proceeding, or right accrued prior to January 1, 2020, to be completed as though the amendments pursuant to this act had not become effective. Section 230 is a severability clause that ensures provisions in the bill remain valid if any other provision is held invalid.

Sections 231-291 make non-substantive, conforming changes to parts II and III of ch. 607, F.S., as well as chs. 331, 339, 605, 617, 620, 621, 631, 658, 662, 663, and 694, F.S.
Section 292 provides an effective date of January 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:
   None.

B. Public Records/Open Meetings Issues:
   None.

C. Trust Funds Restrictions:
   None.

D. State Tax or Fee Increases:
   None.

E. Other Constitutional Issues:
   None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:
   None.

B. Private Sector Impact:
   Corporations and those wishing to incorporate will need to familiarize themselves with the extensive updates to ch. 607, F.S.

C. Government Sector Impact:
   The Department of State will need to make minimal updates to its computer system and moderate updates to its intermediary and cloud systems. This can be done within existing resources.

VI. Technical Deficiencies:

It is unclear what filing fee applies to an article of amendment filed pursuant to s. 607.0102, F.S.

Section 607.0742(2), F.S., regarding notice required to institute a shareholder derivative action, may be clearer if it included guidance for shareholders who make a demand of a corporation as required, but such demand is ignored for the entire duration of the required 90-day waiting
period. Lines 4000-4001 require a shareholder to show that his or her demand was “refused, rejected, or ignored by the board of directors prior to the expiration of 90 days.”

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**


This bill repeals the following sections of the Florida Statutes: 607.07401, 607.1108, 607.1109, 607.11101, 607.1112, 607.1113, 607.1114, 607.1115, 607.1421, 607.1531, 607.1621, and 607.1801.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
   (Summarizing differences between the Committee Substitute and the prior version of the bill.)

   CS/CS by Judiciary on March 25, 2019:
   The committee substitute:
   • Reinstates s. 605.0907(d)(1), F.S. concerning amendments to certificates of authority by deleting the amendment to s. 607.0907(d)(1), F.S. in section 258.
   • Makes technical and conforming changes to sections 27, 115, and 132:
     o Section 27 – adding the term “director” to s. 607.0304(2)(b), F.S. conforming to changes elsewhere in the bill distinguishing between a “director” and an “officer.”
     o Section 115 – amending s. 607.0901(4)(c), F.S., changing the period of 80 percent beneficial ownership from 5 years to 3 years, conforming this period of time with other changes to the affiliated transaction statute in the bill.
     o Section 132 – adding the term “right to acquire shares” to new subsection (7) to conform with the rest of the changes to s. 607.1102, F.S. made by the bill.

   CS by Commerce and Tourism on March 11, 2019:
   The committee substitute reverts to current law to allow corporations to provide notice of dissolution to unknown claimants by either newspaper publication or filing with the Department of State.

B. Amendments:

   None.
A bill to be entitled
An act relating to business organizations; amending s. 607.0101, F.S.; providing applicability; amending s. 607.0102, F.S.; making technical changes; amending s. 607.0120, F.S.; making technical changes; providing requirements, authorizations, and prohibitions relating to when the terms of a plan or a filed document may be dependent on facts objectively ascertainable outside of the plan or filed document; defining the terms "filed document" and "plan"; amending s. 607.0121, F.S.; making technical changes; conforming provisions to changes made by the act; amending s. 607.0122, F.S.; conforming provisions to changes made by the act; amending s. 607.0123, F.S.; revising provisions, requirements, and authorizations relating to the effective time and date of a document; amending s. 607.0124, F.S.; revising the process authorizing a domestic or foreign corporation to correct a document filed by the Department of State; authorizing a filing to be withdrawn before it takes effect if certain requirements are met; amending s. 607.0125, F.S.; revising the filing duties of the department; amending s. 607.0126, F.S.; revising the appeals process relating to the department’s refusal to file a document; amending s. 607.0127, F.S.; requiring certain certificates to be taken by certain entities as prima facie evidence of the facts stated; revising when a certificate and a copy of a document are conclusive evidence that the original document is on file with the department; amending s. 607.0128, F.S.; revising provisions relating to department-issued certificates of status; amending s. 607.0130, F.S.; deleting provisions relating to the powers of the department; amending s. 607.01401, F.S.; defining and redefining terms; amending s. 607.0141, F.S.; revising provisions relating to written and oral notice under ch. 607, F.S.; providing construction; creating s. 607.0143, F.S.; defining the terms "qualified director," "material relationship," and "material interest"; providing for circumstances under which a director is not automatically prevented from being a qualified director; amending s. 607.0201, F.S.; conforming provisions to changes made by the act; amending s. 607.0202, F.S.; revising requirements and authorizations for the contents of articles of incorporation; authorizing provisions of the articles of incorporation to be made dependent upon facts objectively ascertainable outside of the articles of incorporation; prohibiting the articles of incorporation from containing certain provisions; amending s. 607.0203, F.S.; conforming provisions to changes made by the act; amending s. 607.0204, F.S.; deleting an exemption from liability related to persons who have actual knowledge that there is no incorporation when purporting to act as or on behalf of a corporation; making a technical change; amending s. 607.0205, F.S.; making technical changes; requiring directors or incorporators calling an organizational
Florida Senate - 2019  CS for CS for SB 892

590-03467A-19 2019892c2

meeting to give at least 2, rather than 3, days' notice; amending s. 607.0206, F.S.; revising provisions relating to the contents of the bylaws of a corporation; amending s. 607.0207, F.S.; making technical changes; creating s. 607.0208, F.S.; authorizing provisions of the articles of incorporation or the bylaws to create exclusive jurisdiction for certain claims; providing applicability for such provisions; prohibiting the articles or bylaws from prohibiting certain actions; defining the term "internal corporate claim"; amending s. 607.0301, F.S.; revising purposes and applicability; amending s. 607.0302, F.S.; making technical changes; amending s. 607.0303, F.S.; revising the requirements relating to the liability of certain persons acting in accordance with emergency bylaws; making technical changes; amending s. 607.0304, F.S.; revising when a corporation's power to act may be challenged; amending s. 607.0401, F.S.; authorizing a corporation to register under a name that is not otherwise distinguishable on the records of the department under certain circumstances; providing applicability; creating s. 607.04021, F.S.; authorizing a person to reserve the exclusive use of a corporate name and to transfer the reservation; authorizing the department to revoke a reservation under certain circumstances; amending s. 607.0403, F.S.; making technical changes; conforming a cross-reference; amending s. 607.0501, F.S.; revising

CODING: Words **stricken** are deletions; words **underlined** are additions.
for shares; amending s. 607.0621, F.S.; expanding the
circumstances in which shares that are escrowed or
restricted and distributions that are credited may be
canceled; amending s. 607.0622, F.S.; making a
technical change; amending s. 607.0623, F.S.;
authorizing the board to fix a record date for
determining shareholders entitled to a share dividend;
amending s. 607.0624, F.S.; revising provisions
related to rights, options, warrants, and awards for
the purchase of shares of the corporation; defining
the term “shares”; amending ss. 607.0625, 607.0626,
and 607.0627, F.S.; making technical changes; amending
s. 607.0630, F.S.; revising provisions relating to
shareholders’ preemptive rights; amending s. 607.0631,
F.S.; revising provisions relating to a corporation’s
acquisition of its own shares; amending s. 607.06401,
F.S.; revising provisions relating to distributions to
shareholders; providing applicability; making
technical changes; amending s. 607.0701, F.S.;
revising provisions relating to a corporation’s annual
meeting; amending s. 607.0702, F.S.; revising
provisions relating to a corporation’s special meeting
of the shareholders; amending s. 607.0703, F.S.;
revising provisions relating to court-ordered
meetings; amending s. 607.0704, F.S.; revising
provisions relating to actions by shareholders without
a meeting; making technical changes; amending s.
607.0705, F.S.; revising provisions relating to
notices of meetings; amending s. 607.0706, F.S.;
appoint one or more inspectors to determine voting
results; authorizing the inspectors to appoint or
retain certain persons for specific reasons; providing
requirements for inspectors; authorizing the
inspectors to take certain actions; providing for
review of determinations of law by the inspectors;
providing for the closing of polls for elections;
amending s. 607.0730, F.S.; making technical changes;
amending s. 607.0731, F.S.; making clarifying changes;
expanding the circumstances under which a transferee
is deemed to have notice of a voting agreement;
amending s. 607.0732, F.S.; revising provisions
relating to shareholder agreements; providing
construction; repealing s. 607.07401, F.S., relating
to Shareholders' derivative actions; creating s.
607.0741, F.S.; providing standing requirements for a
shareholder commencing a derivative proceeding;
defining the term "shareholder"; creating s. 607.0742,
F.S.; relocating and revising provisions relating to a
complaint brought in a proceeding in the right of a
corporation; creating s. 607.0743, F.S.; authorizing a
court to stay a derivative proceeding under certain
circumstances; creating s. 607.0744, F.S.; relocating
and revising provisions relating to the dismissal of a
derivative proceeding; creating s. 607.0745, F.S.;
relocating a provision relating to the discontinuance
or settlement of a derivative action; creating s.
607.0746, F.S.; relocating and revising provisions
relating to proceeds and expenses after the
termination of a derivative proceeding; creating s.
607.0747, F.S.; providing applicability relating to
foreign corporations; creating s. 607.0748, F.S.;
authorizing a circuit court to appoint one or more
persons to be custodians or receivers of and for a
corporation for certain proceedings; providing
guidance to the court for appointing such custodians
and receivers; creating s. 607.0749, F.S.; authorizing
a provisional director to be appointed at the
discretion of the court in a proceeding by a
shareholder and under certain circumstances; providing
requirements for the provisional director; requiring
the court to allow reasonable compensation paid by the
corporation to the provisional director for certain
services; amending s. 607.0801, F.S.; making technical
changes; amending s. 607.0802, F.S.; revising
provisions relating to the qualifications of
directors; amending s. 607.0803, F.S.; making
clarifying changes; amending s. 607.0804, F.S.;
providing applicability; amending s. 607.0805, F.S.;
revising provisions relating to terms of directors;
amending s. 607.0806, F.S.; revising provisions
relating to staggered terms for directors; amending s.
607.0807, F.S.; revising provisions relating to the
resignation of directors; amending s. 607.0808, F.S.;
revising provisions relating to the removal of
directors by shareholders; creating s. 607.08081,
F.S.; authorizing circuit courts to remove a director
from office and order certain relief under certain
circumstances; amending s. 607.0809, F.S.; revising provisions relating to vacancies on a board of directors; amending s. 607.0820, F.S.; making technical changes; amending s. 607.0821, F.S.; revising provisions relating to action by directors without a meeting; amending s. 607.0823, F.S.; revising provisions relating to the waiver of notice of a meeting of a board of directors; amending s. 607.0824, F.S.; revising provisions relating to what constitutes a quorum of the board of directors; amending s. 607.0825, F.S.; revising provisions relating to the establishment and the powers of executive and board committees; creating s. 607.0826, F.S.; authorizing a corporation to agree to submit a matter that the board of directors determines it no longer recommends to a vote of the corporation’s shareholders; amending s. 607.0830, F.S.; revising the general standards for directors; amending s. 607.0831, F.S.; revising provisions relating to the liability of directors; amending s. 607.0832, F.S.; defining terms; revising provisions relating to directors’ conflicts of interest; amending s. 607.0833, F.S.; making a technical change; amending s. 607.0834, F.S.; revising provisions relating to liability for unlawful distributions; amending s. 607.08401, F.S.; authorizing the board of directors to appoint one or more individuals to act as officers of the corporation; specifying which records must be authenticated by an officer; creating s. 607.08411, F.S.; providing general standards for officers of the corporation; amending s. 607.0842, F.S.; revising provisions relating to the resignation and removal of officers; amending s. 607.0850, F.S.; defining terms; deleting provisions relating to the indemnification of officers, directors, employees, and agents; creating s. 607.0851, F.S.; relocating and revising provisions relating to the permissible indemnification of certain persons by a corporation; creating s. 607.0852, F.S.; relocating and revising provisions relating to the mandatory indemnification of certain persons by a corporation; creating s. 607.0853, F.S.; authorizing a corporation to advance funds to pay for or reimburse certain expenses; providing requirements for the authorization of advanced funds; creating s. 607.0854, F.S.; relocating and revising provisions related to court-ordered indemnification and advance for expenses; creating s. 607.0855, F.S.; relocating and revising provisions relating to determination and authorization of indemnification; creating s. 607.0857, F.S.; relocating and revising provisions related to a corporation purchasing and maintaining certain insurance; creating s. 607.0858, F.S.; relocating and revising provisions relating to indemnification by a corporation which is not specifically provided for by law; providing applicability; creating s. 607.0859, F.S.; relocating and revising provisions relating to overriding restrictions on indemnification; amending s. 607.0901,
Florida Senate - 2019 CS for CS for SB 892

590-03467A-19 2019892c2

Page 11 of 458

CODING: Words ______ are deletions; words __________ are additions.

Florida Senate - 2019 CS for CS for SB 892

590-03467A-19 2019892c2

Page 12 of 458

CODING: Words ______ are deletions; words __________ are additions.
to mergers or share exchanges with foreign
349
corporations; repealing s. 607.1108, F.S., relating to
350
merger of domestic corporation and other business
351
type; repealing s. 607.1109, F.S., relating to
352
articles of merger; repealing s. 607.11101, F.S.,
353
relating to the effect of a merger of domestic
354
corporation and other business entity; repealing s.
355
607.1112, F.S., relating to the conversion of a
356
domestic corporation into another business entity;
357
repealing s. 607.1113, F.S., relating to certificates
358
of conversion; repealing s. 607.1114, F.S., relating
359
to the effect of the conversion of a domestic
360
corporation into another business entity; repealing s.
361
607.1115, F.S., relating to the conversion of another
362
business entity into a domestic corporation; creating
363
s. 607.11920, F.S.; authorizing a foreign corporation
364
to become a domestic corporation under certain
365
circumstances; authorizing a domestic corporation to
366
become a foreign corporation under certain
367
circumstances; requiring that a plan of domestication
368
include certain information; authorizing a
369
domestication to include certain provisions;
370
authorizing a plan of domestication to be made
371
dependent upon facts objectively ascertainable outside
372
of the plan; providing applicability; creating s.
373
607.11921, F.S.; requiring a plan of domestication to
374
be adopted in a certain manner; creating s. 607.11922,
375
F.S.; requiring a domesticating corporation to sign
376
articles of domestication under certain circumstances;
377

CODING: Words **stricken** are deletions; words __underlined__ are additions.
and revising provisions relating to the effectiveness of a conversion; amending s. 607.1201, F.S.; revising provisions relating to the disposition of assets not requiring shareholder approval; amending s. 607.1202, F.S.; revising provisions relating to shareholder approval of certain dispositions; amending s. 607.1301, F.S.; defining, deleting, and revising terms; amending s. 607.1302, F.S.; revising provisions relating to appraisal rights of shareholders; amending s. 607.1303, F.S.; making technical changes; amending s. 607.1320, F.S.; revising provisions relating to notice of appraisal rights; amending s. 607.1321, F.S.; revising provisions relating to notice of intent to demand payment; amending s. 607.1322, F.S.; revising provisions relating to appraisal notice and form; amending s. 607.1323, F.S.; making technical changes; amending s. 607.1324, F.S.; specifying that a shareholder ceases to have certain rights upon payment of an agreed value; amending s. 607.1326, F.S.; making technical changes; amending s. 607.1330, F.S.; revising provisions relating to court action to determine the fair value of shares and accrued interest; amending ss. 607.1331, 607.1332, and 607.1333, F.S.; making technical changes; creating s. 607.1340, F.S.; relocating provisions relating to certain shareholders challenging certain actions; making technical changes; amending s. 607.1401, F.S.; revising provisions relating to incorporators or directors dissolving a corporation; amending s. 607.1402, F.S.; revising provisions relating to the dissolution of a corporation by the board of directors and the shareholders; amending s. 607.1403, F.S.; revising provisions relating to articles of dissolution; defining the terms "dissolved corporation" and "successor entity"; amending s. 607.1404, F.S.; revising provisions relating to revocation of dissolution; amending s. 607.1405, F.S.; revising provisions relating to the effect of dissolution; amending s. 607.1406, F.S.; revising provisions relating to known claims against a dissolved corporation; defining the term "known claims"; deleting the term "successor entity"; amending s. 607.1407, F.S.; revising provisions relating to unknown claims against a dissolved corporation; creating s. 607.1408, F.S.; relocating provisions relating to claims against dissolved corporations; creating s. 607.1409, F.S.; authorizing certain dissolved corporations to file an application with the circuit court for a certain determination; providing guidelines for the proceedings; creating s. 607.1410, F.S.; providing duties for directors of dissolved corporations; amending s. 607.1420, F.S.; revising provisions relating to the administrative dissolution of a corporation; repealing s. 607.1421, F.S.; relating to the procedure for and effect of administrative dissolution; amending s. 607.1422, F.S.; revising provisions relating to reinstatement following administrative dissolution; amending s.
607.1423, F.S.; revising provisions relating to
judicial review of denials of reinstatement; amending
s. 607.1430, F.S.; revising provisions relating to
grounds for judicial dissolution; defining the term
"shareholder"; amending s. 607.1431, F.S.; revising
provisions relating to procedures for judicial
dissolution; amending s. 607.1432, F.S.; revising
provisions relating to receivership and custodianship;
amending s. 607.1433, F.S.; revising provisions
relating to judgment of dissolution; amending s.
607.1434, F.S.; revising provisions relating to
alternative remedies to judicial dissolution; amending
s. 607.1435, F.S.; revising provisions relating to
court-appointed provisional directors; amending s.
607.1436, F.S.; revising provisions relating to
elections to purchase instead of dissolution; amending
s. 607.14401, F.S.; revising provisions relating to
deposits associated with a dissolved corporation;
amending s. 607.1501, F.S.; revising provisions
relating to the authority of a foreign corporation to
transact business in this state; creating s.
607.15015, F.S.; providing for applicability of
certain laws for a foreign corporation; providing that
a foreign corporation may not be denied a certificate
of authority for certain reasons; specifying that a
certificate of authority does not authorize a foreign
corporation to take certain actions; amending s.
607.1502, F.S.; revising provisions relating to
transacting business in this state without a

CODING: Words **stricken** are deletions; words **underlined** are additions.
creating s. 607.1521, F.S.; specifying that certain foreign corporations are deemed to have withdrawn their certificate of authority under certain circumstances; creating s. 607.1522, F.S.; requiring a foreign corporation to deliver a notice of withdrawal of a certificate of authority under certain circumstances; providing for effective service of process on such foreign corporations; creating s. 607.1523, F.S.; authorizing the Department of Legal Affairs to maintain certain actions and to enjoin a foreign corporation under certain circumstances; amending s. 607.1530, F.S.; revising provisions relating to revocation of a foreign corporation’s certificate of authority; repealing s. 607.1531, F.S., relating to the procedure for and effect of revocation; amending s. 607.15315, F.S.; revising provisions relating to reinstatement of a foreign corporation’s certificate of authority; amending s. 607.1532, F.S.; revising provisions relating to judicial review of a denial of reinstatement; amending s. 607.1601, F.S.; revising provisions relating to the maintenance of corporate records; amending s. 607.1602, F.S.; revising provisions relating to inspection of records by shareholders; revising the definition of the term "shareholder"; amending s. 607.1603, F.S.; revising provisions relating to the scope of shareholders’ inspection rights; amending s. 607.1604, F.S.; revising provisions relating to court-ordered inspections; amending s. 607.1605, F.S.; revising provisions relating to directors' inspection rights; amending s. 607.1620, F.S.; revising provisions relating to financial statements for shareholders; repealing s. 607.1621, F.S., relating to other reports to shareholders; amending s. 607.1622, F.S.; revising provisions relating to annual reports that are required to be filed with the Department of State; amending s. 607.1701, F.S.; making a technical change; revising applicability; amending s. 607.1702, F.S.; revising applicability; amending s. 607.1711, F.S.; making a technical change; repealing s. 607.1801, F.S., relating to domestication of foreign corporations; amending s. 607.1907, F.S.; revising provisions relating to savings provisions; creating s. 607.1908, F.S.; providing for severability; amending s. 607.504, F.S.; revising provisions relating to an election of social purpose corporation status; amending s. 607.604, F.S.; revising provisions relating to an election of benefit corporation status; conforming a cross-reference; amending s. 605.0102, F.S.; conforming a cross-reference; revising the definitions of the terms "private organic rules" and "public organic record"; amending s. 605.0105, F.S.; revising provisions relating to operating agreements; amending s. 605.0112, F.S.; revising provisions relating to names of limited liability companies; creating s. 605.01125, F.S.; authorizing a person to reserve the exclusive use of the name of a limited liability company; providing requirements for
590-03467A-19 2019892c2

591   reserving the name; authorizing the department to
592   revoke reservations under certain circumstances;
593   amending s. 605.0113, F.S.; revising provisions
594   relating to registered agents of limited liability
595   companies; defining the term "authorized entity";
596   amending s. 605.0114, F.S.; revising provisions
597   relating to changes of a registered agent or
598   registered office; amending s. 605.0115, F.S.;
599   requiring a registered agent to promptly mail a copy
600   of a statement of resignation to a limited liability
601   company’s or foreign limited liability company’s
602   current mailing address; amending s. 605.0116, F.S.;
603   making clarifying changes; amending s. 605.0117, F.S.;
604   revising provisions relating to service of process,
605   notice, and demand on limited liability companies and
606   registered foreign limited liability companies;
607   amending s. 605.0118, F.S.; conforming a provision to
608   changes made by the act; amending s. 605.0207, F.S.;
609   revising provisions relating to effective dates and
610   times for records filed with the Department of State;
611   amending s. 605.0209, F.S.; revising what a statement
612   of correction must contain; amending s. 605.0210,
613   F.S.; revising provisions relating to the department’s
614   refusal to file a record; amending s. 605.0211, F.S.;
615   revising provisions relating to certificates of status
616   for foreign limited liability companies; amending s.
617   605.0215, F.S.; specifying that a copy of a document
618   filed by the department must bear the signature of the
619   Secretary of State and the seal of this state in order

CODING: Words **stricken** are deletions; words **underlined** are additions.
(1) This chapter may be cited as the “Florida Business Corporation Act.”
(2) Part I of this chapter contains provisions of general applicability to corporations.

(3) Part II of this chapter applies to social purpose corporations.

(4) Part III of this chapter applies to benefit corporations.

Section 2. Section 607.0102, Florida Statutes, is amended to read:

607.0102 Reservation of power to amend or repeal.—The Legislature has power to amend or repeal all or part of this chapter at any time, and all domestic and foreign corporations subject to this chapter shall be governed by the amendment or repeal.

Section 3. Subsections (1), (2), (3), (6), (8), (9), and (10) of section 607.0120, Florida Statutes, are amended, and subsection (11) is added to that section, to read:

607.0120 Filing requirements.—

(1) A document must satisfy the requirements of this section and of any other section that adds to or varies these requirements to be entitled to filing by the department of State.

(2) This chapter must require or permit filing the document in the office of the department of State.

(3) The document must contain the information required by this chapter and may contain other information as well.

(6) The document must be signed executed:

(a) By a director of a domestic or foreign corporation, or by its president or by another of its officers;

(b) If directors or officers have not been selected or the corporation has not been formed, by an incorporator; or

(c) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(8) If the department of State has prescribed a mandatory form for the document under s. 607.0121, the document must be in or on the prescribed form.

(9) The document must be delivered to the office of the department of State for filing. Delivery may be made by electronic transmission if and to the extent permitted by the department of State. If it is filed in typewritten or printed form and not transmitted electronically, the department of State may require one exact or conformed copy, to be delivered with the document, except as provided in s. 607.1509.

(10) When the document is delivered to the department of State for filing, the correct filing fee, and any other tax, license fee, or penalty required to be paid by this act or other law shall be paid or provision for payment made in a manner permitted by the department of State.

(11) Whenever this chapter allows any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, the following provisions apply:

(a) The plan or filed document must set forth the manner in which the facts will operate upon the terms of the plan or filed document.

(b) The facts may include, but are not limited to:

1. Any of the following that are available in a nationally recognized news or information medium either in print or electronically:
a. Statistical or market indices;

b. Market prices of any security or group of securities;

c. Interest rates;

d. Currency exchange rates; and

e. Similar economic or financial data;

2. A determination or action by any person or body, including the corporation or any other party to a plan or filed document; or

3. The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.

(c) The following provisions of a plan or filed document may not be made dependent on facts outside the plan or filed document:

1. The name and address of any person required in a filed document;

2. The registered office of any entity required in a filed document;

3. The registered agent of any entity required in a filed document;

4. The number of authorized shares and designation of each class or series of shares;

5. The effective date of a filed document; and

6. Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.

(d) If a provision of a filed document is made dependent on a fact ascertainable outside of the filed document, and that fact is not ascertainable by reference to a source described in paragraph (b)1. or a document that is a matter of public record, and the affected shareholders have not received notice of the fact from the corporation, then the corporation must file with the department articles of amendment to the filed document setting forth the fact promptly after the time when the fact referred to is first ascertainable or thereafter changes.

Articles of amendment under this paragraph are deemed to be authorized by the authorization of the original filed document to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.

(e) As used in this subsection, the term “filed document” means a document filed with the department pursuant to this chapter, except for a document filed pursuant to ss. 607.1501-607.1532; and the term “plan” means a plan of merger, a plan of share exchange, a plan of conversion, or a plan of domestication.

Section 4. Section 607.0121, Florida Statutes, is amended to read:

607.0121 Forms.—

(1) The department of State may prescribe and furnish on request forms for:

(a) An application for certificate of status,

(b) A foreign corporation’s application for certificate of authority to transact business in the state,

(c) A foreign corporation’s notice of withdrawal of certificate of authority, application for certificate of withdrawal, and

(d) The annual report, for which the department may prescribe the use of the uniform business report, pursuant to s.
(2) If the department of State so requires, the use of these forms shall be mandatory.

(3) The department of State may prescribe and furnish on request forms for other documents required or permitted to be filed by this chapter, but their use is not mandatory.

Section 5. Section 607.0122, Florida Statutes, is amended to read:

607.0122 Fees for filing documents and issuing certificates.—The department of State shall collect the following fees when the documents described in this section are delivered to the department for filing:

(1) Articles of incorporation: $35.

(2) Application for registered name: $87.50.

(3) Application for renewal of registered name: $87.50.

(4) Corporation’s statement of change of registered agent or registered office or both if not included on the annual report: $35.

(5) Designation of and acceptance by registered agent: $35.

(6) Agent’s statement of resignation from active corporation: $87.50.

(7) Agent’s statement of resignation from an inactive corporation: $35.

(8) Amendment of articles of incorporation: $35.

(9) Restatement of articles of incorporation with amendment of articles: $35.

(10) Articles of merger or share exchange for each party thereto: $35.

(11) Articles of dissolution: $35.

(12) Articles of revocation of dissolution: $35.

(13) Application for reinstatement following administrative dissolution: $600.

(14) Application for certificate of authority to transact business in this state by a foreign corporation: $35.

(15) Application for amended certificate of authority: $35.

(16) Application for certificate of withdrawal by a foreign corporation: $35.

(17) Annual report: $61.25.

(18) Articles of correction: $35.

(19) Application for certificate of status: $8.75.

(20) Certificate of domestication of a foreign corporation: $50.

(21) Certified copy of document: $52.50.

(22) Serving as agent for substitute service of process: $87.50.

(23) Supplemental corporate fee: $88.75.

(24) Any other document required or permitted to be filed by this chapter: $35.

Section 6. Section 607.0123, Florida Statutes, is amended to read:

607.0123 Effective time and date of document.—Except as otherwise provided in s. 607.0124(5), and subject to s. 607.0124(4), any document delivered to the department for filing under this chapter may specify an effective time and a delayed effective date. In the case of initial articles of incorporation, a prior effective date may be specified in the articles of incorporation if such date is within 5 business days after the date of filing.
If a filed document does not specify the time zone or does not specify a prior or a delayed effective date, on the date and at the time the filing is accepted, as evidenced by the department’s endorsement of the date and time on the filing:

(b) If the filing specifies an effective time, but not a prior or delayed effective date, on the date the filing is filed at the time specified in the filing;

(c) If the filing specifies a delayed effective date, but not an effective time, at 12:01 a.m. on the earlier of:

1. The specified date; or
2. The 90th day after the date of the filing.

(d) If the filing specifies a delayed effective date and an effective time, at the specified time on the earlier of:

1. The specified date; or
2. The 90th day after the date of the filing.

(e) If the filing is of initial articles of incorporation and specifies an effective date before the date of the filing, but no effective time, at 12:01 a.m. on the later of:

1. The specified date; or
2. The 5th business day before the date of the filing.

(f) If the filing is of initial articles of incorporation and specifies an effective time and an effective date before the date of the filing, at the specified time on the later of:

1. The specified date; or
2. The 5th business day before the date of the filing.

(2) If a filed document does not specify the time zone or date or time, or both, at which it becomes effective shall be those prevailing at the place of filing in this state.

(1) Except as provided in subsections (2) and (4) and in s. 607.0125(3), a document accepted for filing is effective on the date and at the time of filing, as evidenced by such means as the Department of State may use for the purpose of recording the date and time of filing.

(2) A document may specify a delayed effective date and, if desired, a time on that date, and if it does the document shall become effective on the date and at the time, if any, specified. If a delayed effective date is specified without specifying a time on that date, the document shall become effective at the start of business on that date. Unless otherwise permitted by this act, a delayed effective date for a document may not be later than the 90th day after the date on which it is filed.

(3) If a document is determined by the department of State to be incomplete and inappropriate for filing, the department of State may return the document to the person or corporation filing it, together with a brief written explanation of the reason for the refusal to file, in accordance with s. 607.0125(3). If the applicant returns the document with corrections in accordance with the rules of the department within 60 days after it was mailed to the applicant by the department and if at the time of return the applicant so requests in writing, the filing date of the document will be the filing date that would have been applied had the original document not been deficient, except as to persons who relied on the record before correction and were adversely affected.
(1) Corporate existence may predate the filing date. Pursuant to s. 607.0203(2),
Section 7. Section 607.0124, Florida Statutes, is amended to read:
607.0124 Correcting filed document; withdrawal of filed record before effectiveness.—
(1) A domestic or foreign corporation may correct a document filed by the department of State within 30 days after filing if:
(a) The document contains an inaccuracy;
(b) The document contains false, misleading, or fraudulent information;
(c) The document was defectively signed, attested, sealed, verified, or acknowledged; or
(d) The electronic transmission of the document to the department was defective.
(2) A document is corrected:
(a) By preparing articles of correction that:
1. Describe the document (including its filing date) or attach a copy of the document to the articles of correction;
2. Specify the inaccuracy or defect to be corrected; and
3. Correct the inaccuracy or defect; and
(b) By delivering the articles of correction to the department of State for filing, signed in accordance with s. 607.0120.
(3) Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.
(4) Articles of correction may not contain a delayed effective date for the correction.
(5) Unless otherwise provided for in s. 607.1107(2), s. 607.11923(3), or s. 607.11934(1), a filing delivered to the department may be withdrawn before it takes effect by delivering a withdrawal statement to the department for filing.
(a) A withdrawal statement must:
1. Be signed by each person who signed the filing being withdrawn, except as otherwise agreed to by such persons;
2. Identify the filing to be withdrawn; and
3. If not signed by all persons who signed the filing being withdrawn, state that the filing is withdrawn in accordance with the agreement of all persons who signed the filing.
(b) On the filing by the department of a withdrawal statement, the action or transaction evidenced by the original filing does not take effect.
(6) Articles of correction that are filed to correct false, misleading, or fraudulent information are not subject to a fee of the department of State if the articles of correction are delivered to the department of State within 15 days after the notification of filing sent pursuant to s. 607.0125(2).
Section 8. Section 607.0125, Florida Statutes, is amended to read:
607.0125 Filing duties of the department of State.—
(1) If a document delivered to the department of State for filing satisfies the requirements of s. 607.0120, the department of State shall file it.
(2) The department of State files a document by stamping or otherwise endorsing the document as filed, together with the department’s official title and recording it as filed on the date and time of receipt. After filing a document, the department of State shall send a notice of the filing or a copy of the filing to the electronic mail address on file for the domestic or foreign corporation or its authorized representative or a copy of the filed document to the mailing address of such corporation or its authorized representative. If the record changes the electronic mail address of the corporation, the department of State must send such notice to the new electronic mail address and to the most recent prior electronic mail address. If the record changes the mailing address of the corporation, the department of State must send such notice to the new mailing address and to the most recent prior mailing address.

(3) If the department of State refuses to file a document, the department of State shall return the document to the domestic or foreign corporation or its representative within 15 days after the document was received for filing, together with a brief, written explanation of the reason for refusal.

(4) The department’s duty to file documents under this section is ministerial. The filing or refusing to file a document does not:

(a) Affect the validity or invalidity of the document in whole or part;

(b) Relate to the correctness or incorrectness of information contained in the document;

(c) Create a presumption that the document does or does not conform to the requirements of this chapter or that the information contained in the document is valid or invalid or that information contained in the document is correct or incorrect.

(5) If not otherwise provided by law and the provisions of this chapter, the department of State shall determine, by rule, the appropriate format for, number of copies of, manner of execution of, method of electronic transmission of, and amount and method of payment of fees for, any document placed under its jurisdiction.

Section 9. Section 607.0126, Florida Statutes, is amended to read:

607.0126 Appeal from department’s refusal to file document.—If the department of State refuses to file a document delivered to its office for filing, the person who submitted the document for filing may petition the Circuit Court of Leon County to compel filing of the document. The document and the explanation from the department of State refusal to file must be attached to the petition. The court may decide the matter in a summary proceeding and within 30 days after return of the document by the department by mail, as evidenced by the postmark, the domestic or foreign corporation may:

(1) Appeal the refusal pursuant to s. 120.68;

(2) Appeal the refusal to the circuit court of the county where the corporation’s principal office (or, if none in this state, its registered office) is or will be located. The appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the Department of State’s explanation of its refusal to file. The matter shall promptly be tried de novo by the court without a
(c) Whether all fees due to the department under this chapter have been paid.

(d) Whether the corporation’s most recent annual report required under s. 607.1622 has been filed by the department.

(e) Whether the department has administratively dissolved the corporation or received a record notifying the department that the corporation has been dissolved by judicial action pursuant to s. 607.1433.

(f) Whether the department has filed articles of dissolution for the corporation.

(2) The department, upon request and payment of the requisite fee, shall furnish a certificate of status for a foreign corporation if the records filed show that the corporation has been dissolved by judicial action pursuant to s. 607.1433.

(a) The foreign corporation’s name and any current alternate name adopted pursuant to s. 607.1506 for use in this state.

(b) That the foreign corporation is authorized to transact business in this state.

(c) Whether all fees and penalties due to the department under this chapter or other law have been paid.

(d) Whether the foreign corporation’s most recent annual report required under s. 607.1622 has been filed by the department.

(e) Whether the department has:

1. Revoked the foreign corporation’s certificate of authority; or

2. Filed a notice of withdrawal of certificate of authority

(1) Anyone may apply to the Department of State to furnish

Certificates to be received in evidence; evidentiary effect of certified copy of filed document.—All certificates issued by the department pursuant to this chapter must be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts stated. A certificate filed with the department, upon request and payment of the requisite fee, shall issue a certificate of status for a foreign corporation if the records filed show that the corporation has accepted and filed the corporation’s articles of incorporation. A certificate of status must state the following:

(a) The corporation’s name.

(b) That the corporation was organized under the laws of this state and the date of organization.

(c) Whether all fees due to the department under this chapter have been paid.
Section 607.0130, Florida Statutes, is amended to read:

607.0130 Powers of department of State.—

(2) The domestic corporation’s corporate name or the foreign corporation’s corporate name used in this state.

(3) That articles of dissolution have not been filed.

(4) That its most recent annual report required by s. 607.1622 has been delivered to the department; and

(5) That all fees and penalties owed to the department have been paid, if:

1. Payment is reflected in the records of the department, and

2. Nonpayment affects the existence or authorization of the domestic or foreign corporation.

(6) That the foreign corporation is in existence and is of active status in this state or that the foreign corporation is authorized to transact business in this state and is of active status in this state.

Section 12. Section 607.0130, Florida Statutes, is amended to read:

607.0130 Powers of department of State.—
connection with such proceeding the department may, without
prior approval by the court, file a lis pendens against any
property owned by the corporation and may further certify any
findings to the Department of Legal Affairs for the initiation
of any action permitted pursuant to s. 607.0505 which the
Department of Legal Affairs may deem appropriate.

(4) The department has the power and authority reasonably necessary to enable it to administer this chapter and, if necessary to carry out its duties and functions under this chapter, to adopt reasonable rules and regulations.

Section 13. Section 607.01401, Florida Statutes, is amended to read:

607.01401 Definitions.—As used in this chapter, unless the context otherwise requires, the term:

(1) "Acquired eligible entity" means a domestic or foreign eligible entity that will have all of one or more classes or series of its shares or eligible interests acquired in a share exchange.

(2) "Acquiring eligible entity" means a domestic or foreign eligible entity that will acquire all of one or more classes or series of shares or eligible interests of the acquired eligible entity in a share exchange.

(3) "Applicable county" means the county in which the corporation's principal office is located or was located when an action is or was commenced; if the corporation has, and at the time of such action had, no principal office in this state, then in the county in which the corporation has, or at

the time of such action had, an office in this state; or if the corporation does not have an office in this state, then in the county in which the corporation's registered office is or was last located.

(4) "Articles of incorporation" includes original, amended, and restated articles of incorporation, articles of share exchange, and articles of merger, and all amendments thereto.

When used with respect to a foreign corporation, the term means the document of the foreign corporation that is equivalent to the articles of incorporation of a domestic corporation.

(5) "Authorized entity" means:
(a) A corporation for profit;
(b) A limited liability company;
(c) A limited liability partnership; or
(d) A limited partnership, including a limited liability limited partnership.

(6) "Authorized shares" means the shares of all classes of a domestic or foreign corporation is authorized to issue.

(7) "Beneficial shareholder" means a person who owns the beneficial interest in shares. Such person may be a record shareholder or a person on whose behalf shares are registered in the name of an intermediary or nominee.

(8) "Business day" means Monday through Friday, excluding any day a national banking association is not open for normal business transactions.

(9) "Conspicuous" means so written, displayed, or presented that a reasonable person against whom the writing is to operate should have noticed it. For example, text printing in italics, boldface, or a contrasting color, or typing in

Page 42 of 458
CODING: Words are deletions; words are additions.
590-03467A-19 2019892c2

(10) "Conversion" means a transaction pursuant to ss. 607.11930-607.11935.

(11) "Converted eligible entity" means the converting eligible entity as it continues in existence after a conversion.

(12) "Converting eligible entity" means the domestic corporation that approves a plan of conversion pursuant to s. 607.11932, or a foreign eligible entity that approves a conversion pursuant to the organic law of the foreign eligible entity.

(13) "Corporation" or "domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under this chapter or subject to the provisions of this act.

(14) "Day" means a calendar day.

(15) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and, if authorized under s. 607.0141, electronic transmission.

(16) "Department" means the Florida Department of State.

(17) "Derivative proceeding" means a civil suit in the right of a domestic corporation or, to the extent provided in s. 607.0747, in the right of a foreign corporation.

(18) "Distribution" means a direct or indirect transfer of money or other property (except its own shares) or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of: a declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a

(19) "Document" means:

(a) Any tangible medium on which information is inscribed, and includes any writing or written instrument; or

(b) An electronic record.

(20) "Domestic" means, with respect to an entity, an entity governed as to its internal affairs by the laws of this state.

(21) "Domesticated corporation" means the domesticating corporation as it continues in existence after a domestication.

(22) "Domesticating corporation" means a domestic corporation that approves a plan of domestication pursuant to s. 607.11921, or a foreign corporation that approves a domestication pursuant to the organic law of the foreign corporation.

(23) "Domestication" means a transaction pursuant to ss. 607.11920-607.11924.

(24) "Effective date" means, when referring to a document accepted for filing by the department, the date and time determined in accordance with s. 607.0123.

(25) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(26) "Electronic record" means information that is stored in an electronic or other medium and is retrievable in paper form through an automated process used in conventional commercial practice, unless otherwise authorized under s. 607.0141.

(27) "Electronic transmission" or "electronically...
1. An individual;  
2. A trust with a predominantly donative purpose or a charitable trust;  
3. A government or a governmental subdivision, agency or instrumentality.  

For purposes of proxy voting in accordance with ss. 607.0721, 607.0722, and 607.0724, the term includes, but is not limited to, telegrams, cablegrams, telephone transmissions, and transmissions through the Internet.  

(28) "Eligible entity" means:  
1. A domestic corporation;  
2. A foreign corporation;  
3. A non-profit corporation;  
4. A general partnership, including a limited liability partnership;  
5. A limited partnership, including a limited liability limited partnership;  
6. A limited liability company;  
7. A real estate investment trust; or  
8. Any other foreign or domestic entity that is organized under an organic law.  

(b) The term does not include:  
1. An individual;  
2. A trust with a predominantly donative purpose or a charitable trust;  
3. A decedent’s estate; or  
4. A governmental subdivision, agency or instrumentality.  

(29) "Eligible interests" means interests or memberships.  

(30) "Employee" includes an officer but not a director.  

A director may accept duties that make him or her also an employee.  

(31) "Entity" includes corporation and foreign corporation; unincorporated association; business trust, estate, limited liability company, partnership, trust, and two or more persons having a joint or common economic interest; and state, United States, and foreign governments.  

(32) "Expenses" means reasonable expenses of any kind that are incurred in connection with a matter.  

(33) The phrase "facts objectively ascertainable outside the plan or filed document" shall be interpreted as set forth in s. 607.0120(11).  

(34) "Filing entity" means an entity, other than a limited liability partnership, that is of a type that is created by filing a public organic record or is required to file a public organic record that evidences its creation.  

(35) "Foreign" means, with respect to an entity, an entity governed as to its internal affairs by the organic law of a jurisdiction other than this state.  

(36) "Foreign corporation" means an entity incorporated or organized under laws other than the laws of this state which
would be a corporation for profit if incorporated under laws other than the laws of this state.

(37) "Foreign nonprofit corporation" means an entity incorporated or organized under laws other than the laws of this state which would be a corporation for profit if incorporated under the laws of this state.

(38) "Governmental subdivision" includes authority, county, district, and municipality.

(39) "Governor" means:
(a) A director of a corporation for profit;
(b) A director or trustee of a nonprofit corporation;
(c) A general partner of a general partnership;
(d) A general partner of a limited partnership;
(e) A manager of a manager-managed limited liability company;
(f) A member of a member-managed limited liability company;
(g) A director or a trustee of a real estate investment trust; or
(h) Any other person under whose authority the powers of an entity are exercised and under whose direction the affairs of the entity are managed pursuant to the organic law and organic rules of the entity.

(40) "Includes" or including" denotes a partial definition or a non-exclusive list.

(41) "Individual" includes the estate of an incompetent or deceased individual.

(42) "Insolvent" means either:
(a) The inability of a corporation to pay its debts as they become due in the usual course of its business; or
(i) Another direct holder of an interest.

(45) "Interest holder liability" means:

(a) Personal liability for a liability of an entity which is imposed on a person;

1. Solely by reason of the status of the person as an interest holder; or

2. By the organic rules of the entity which make one or more specified interest holders or categories of interest holders liable in their capacity as interest holders for all or specified liabilities of the entity.

(b) An obligation of an interest holder under the organic rules of an entity to contribute to the entity.

For purposes of this subsection, except as otherwise provided in the articles of incorporation of a domestic corporation or the organic law or organic rules of an entity, interest holder liability arises under paragraph (a) when the corporation or entity, as applicable, incurs the liability.

(46) "Jurisdiction of formation" means, with respect to an entity:

(a) The jurisdiction under whose organic law the entity is formed, incorporated, or created or otherwise comes into being; however, for these purposes, if an entity exists under the law of a jurisdiction different from the jurisdiction under which the entity originally was formed, incorporated, or created or otherwise came into being, then the jurisdiction under which the entity then exists is treated as the jurisdiction of formation; or

(b) In the case of a limited liability partnership or

(47) "Mail" means the United States mail, facsimile transmissions, and private mail carriers handling nationwide mail services.

(48) "Means" denotes an exhaustive definition.

(49) "Membership" means the rights of a member in a domestic or foreign nonprofit corporation.

(50) "Merger" means a transaction pursuant to s. 607.1101.

(51) "New interest holder liability," in the context of a merger or share exchange, means interest holder liability of a person resulting from a merger or share exchange that is:

(a) In respect of an eligible entity which is different from the eligible entity and not the same eligible entity in which the person held shares or eligible interests, immediately before the merger or share exchange became effective; or

(b) In respect of the same eligible entity as the one in which the person held shares or eligible interests, immediately before the merger or share exchange became effective if:

1. The person did not have interest holder liability immediately before the merger or share exchange became effective; or

2. The person had interest holder liability immediately before the merger or share exchange became effective, the terms and conditions of which were changed when the merger or share exchange became effective.

(52) "Nonprofit corporation" or "domestic nonprofit corporation" means a corporation incorporated under the laws of...
this state and subject to the provisions of chapter 617.
(33) "Organic law" means the laws of the jurisdiction in
which the entity was formed.
(34) "Organic rules" means the public organic record and
private organic rules of an entity.
(35) "Party to a merger" means any domestic or foreign
entity that will merge under a plan of merger. The term does not
include a survivor created by the merger.
(36) "Person" includes an individual and an entity.
(37) "Principal office" means the office (in or out of
this state) where the principal executive offices of a domestic
or foreign corporation are located as designated in the articles
of incorporation or other initial filing until an annual report
has been filed, and thereafter as designated in the annual
report.
(38) "Private organic rules" means the rules, whether or
not in a record, which govern the internal affairs of an entity,
are binding on all its interest holders, and are not part of its
public organic record, if any. If the private organic rules are
amended or restated, the term means the private organic rules as
last amended or restated. The term includes:
(a) The bylaws of a corporation for profit;
(b) The bylaws of a nonprofit corporation;
(c) The partnership agreement of a general partnership;
(d) The partnership agreement of a limited partnership;
(e) The operating agreement, limited liability company
agreement, or similar agreement of a limited liability company;
(f) The bylaws, trust instrument, or similar rules of a
real estate investment trust; and

(g) The trust instrument of a statutory trust or similar
rules of a business trust or common law business trust.
(39) "Proceeding" includes a civil suit, a criminal
action, an administrative action, and an administrative and
investigatory action.
(40) "Protected agreement" means:
(a) A record evidencing indebtedness and any related
agreement in effect on January 1, 2020;
(b) An agreement that is binding on an entity on January 1,
2020;
(c) The organic rules of an entity in effect on January 1,
2020; or
(d) An agreement that is binding on any of the governors or
interest holders of an entity on January 1, 2020.
(41) "Public organic record" means a record, the filing of
which by a governmental body is required to form an entity, or
an amendment to or restatement of such record. Where a public
organic record has been amended or restated, the term means the
public organic record as last amended or restated. The term
includes the following:
(a) The articles of incorporation of a corporation for
profit;
(b) The articles of incorporation of a nonprofit
corporation;
(c) The certificate of limited partnership of a limited
partnership;
(d) The articles of organization, certificate of
organization, or certificate of formation of a limited liability
company;
590-03467A-19 2019892c2

(e) The articles of incorporation of a general cooperative association or a limited cooperative association;

(f) The certificate of trust of a statutory trust or similar record of a business trust; or

(g) The articles of incorporation of a real estate investment trust.

(62) "Record," if used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(63) "Record date" means the date fixed for determining on which a corporation determines the identity of the corporation's shareholders and their share holdings for purposes of this chapter. Unless another time is specified when the record date is fixed, the determination shall be made as of the close of the business at the principal office of the corporation on the date so on the record date unless another time is fixed.

(64) "Record shareholder" means:

(a) The person in whose name shares are registered in the records of the corporation; or

(b) The person identified as a beneficial owner of shares in the beneficial ownership certificate under s. 607.0723 on file with the corporation to the extent of the rights granted by such certificate.

(65) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under s. 607.08401 to maintain for custody of the minutes of the meetings of the board of directors and of the shareholders and for

CODING: Words underlined are deletions; words underlined are additions.
(73) "Survivor," in a merger, means the domestic or foreign eligible entity into which one or more other eligible entities are merged.

(74) "Treasury shares" means shares of a corporation that belong to the issuing corporation, which shares are authorized and issued shares that are not outstanding, are not canceled, and have not been restored to the status of authorized but unissued shares.

(75) "Type of entity" means a generic form of entity either:

(a) Recognized at common law; or

(b) Formed under an organic law, regardless of whether some entities formed under that organic law are subject to provisions of that law that create different categories of the form of entity.

(76) "United States" includes district, authority, bureau, commission, department, and any other agency of the United States.

(77) "Unrestricted voting trust beneficial owner" means, with respect to any shareholder rights, a voting trust beneficial owner whose entitlement to exercise the shareholder right in question is not inconsistent with the voting trust agreement.

(78) "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.

(79) "Voting trust beneficial owner" means an owner of a beneficial interest in shares of the corporation held in a voting trust established pursuant to s. 607.0730(1).

(80) "Writing" means printing, typewriting, electronic communication, or other communication that is reducible to a tangible form. The term "written" has the corresponding meaning.

Section 14. Section 607.0141, Florida Statutes, is amended to read:

607.0141 Notice.—

(1)(a) Notice under this chapter must be in writing, unless oral notice is:

1. Expressed in writing, typewritten, printed, or electronic transmission;

2. Reasonable, under the circumstances.

(b) Unless otherwise agreed upon between the sender and the recipient, words in a notice or other communication under this chapter must be in English.

(c) Notice by electronic transmission is written notice.

(2) A notice or other communication may be given by any method of delivery, including voice mail where oral notice is allowed, except that electronic transmissions must be in accordance with this section. Notice may be communicated in person, by telephone, voice mail, or electronic mail, or by mail or other method of delivery.

(3)(a) Written notice by a domestic or foreign corporation authorized to transact business in this state to its shareholder, if in a comprehensible form, is effective:
1. Upon deposit into the United States mail, if mailed postpaid and correctly addressed to the shareholder’s address shown in the corporation’s current record of shareholders; or
2. When electronically transmitted to the shareholder in a manner authorized by the shareholder.
   (b) Unless otherwise provided in the articles of incorporation or bylaws, and without limiting the manner by which notice otherwise may be given effectively to shareholders, any notice to shareholders given by the corporation under any provision of this chapter, the articles of incorporation, or the bylaws shall be effective if given by a single written notice to shareholders who share an address if consented to by the shareholders at that address to whom such notice is given. Any such consent shall be revocable by a shareholder by written notice to the corporation, and if a written notice of revocation is delivered to the corporation, the corporation must begin providing individual notices, reports, and other statements to the revoking shareholder no later than 30 days after delivery of the written notice of revocation.
   (c) Any shareholder who fails to object in writing to the corporation, within 60 days after having been given written notice by the corporation of its intention to send the single notice permitted under paragraph (b), shall be deemed to have consented to receiving such single written notice.
   (d) This subsection shall not apply to s. 607.0620, s. 607.1402, or s. 607.1404.
   (4) Written notice to a domestic corporation or to a foreign corporation authorized to transact business in this state may be addressed:

(a) To its registered agent at the corporation’s registered office; or
(b) To the corporation or the corporation’s secretary at the corporation’s principal office or electronic mail address as authorized and shown in its most recent annual report or, in the case of a corporation that has not yet delivered an annual report, in a domestic corporation’s articles of incorporation or in a foreign corporation’s application for certificate of authority.

(5) (a) Except as provided in subsection (3) or elsewhere in this chapter, written notice, if in a comprehensible form, is effective at the earliest date of the following:

1. When received;
2. Five days after its deposit in the United States mail, if mailed postpaid and correctly addressed;
3. On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee; or
4. When it enters an information processing system that the recipient has designated or uses for the purposes of receiving electronic transmissions or information of the type sent, and from which the recipient is able to retrieve the electronic transmission, and it is in a form capable of being processed by that system.

(b) Except as provided elsewhere in this chapter, oral notice is effective when communicated directly to the person to be notified in a comprehensible manner.

(6) Except with respect to notice to directors by the corporation, notice or other communications may be delivered by
Section 607.0143, Florida Statutes, is created to read:

607.0143 Qualified director.—
(1) A "qualified director" is a director who, at the time
not less stringent than the requirements of this
section or other provisions of this act, those requirements
govern. The articles of incorporation or bylaws may authorize or
require delivery of notices of meetings of directors by
electronic transmission.

(12) In the event that any provisions of this chapter are
deemed to modify, limit, or supersede the federal Electronic
7001 et seq., the provisions of this chapter shall control to
the maximum extent permitted by section 102(a)(2) of that
federal act.

Section 15. Section 607.0143, Florida Statutes, is created
to read:
607.0143 Qualified director.—
(1) A "qualified director" is a director who, at the time
...
590-03467A-19  2019892c2

1741 action is to be taken under:
1742 (a) Section 607.0744, does not have a material interest in
1743 the outcome of the proceeding or a material relationship with a
1744 person who has such an interest;
1745 (b) Section 607.0832, is not a director as to whom the
1746 transaction is a director’s conflict of interest transaction, or
1747 who has a material relationship with another director as to whom
1748 the transaction is a director’s conflict of interest
1749 transaction; or
1750 (c) Section 607.0853 or s. 607.0855:
1751 1. Is not a party to the proceeding;
1752 2. Is not a director as to whom a transaction is a
1753 director’s conflict of interest transaction, which transaction
1754 is challenged in the proceeding; and
1755 3. Does not have a material relationship with a director
1756 who is disqualified by virtue of not meeting the requirements of
1757 subparagraph 1. or subparagraph 2.
1758 (2) For purposes of this section:
1759 (a) “Material relationship” means a familial, financial,
1760 professional, employment, or other relationship that would
1761 reasonably be expected to impair the objectivity of the
1762 director’s judgment when participating in the action to be
1763 taken.
1764 (b) “Material interest” means an actual or potential
1765 benefit or detriment, other than one which would devolve on the
1766 corporation or the shareholders generally, that would reasonably
1767 be expected to impair the objectivity of the director’s judgment
1768 when participating in the action to be taken.
1769 (3) The presence of one or more of the following

CODING: Words **stricken** are deletions; words *underlined* are additions.
590-03467A-19 2019892c2
Florida Senate - 2019 CS for CS for SB 892

590-03467A-19 2019892c2
Florida Senate - 2019 CS for CS for SB 892

590-03467A-19 2019892c2
Florida Senate - 2019 CS for CS for SB 892

(d) If any preemptive rights are to be granted to shareholders, the provision therefor:

1. The purpose or purposes for which the corporation is organized;
2. Managing the business and regulating the affairs of the corporation;
3. Defining, limiting, and regulating the powers of the corporation and its board of directors and shareholders;
4. A par value for authorized shares or classes of shares;
5. The imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions; and
6. Exclusive forum provisions to the extent allowed by s. 607.0208;

(c) Provisions for granting any preemptive rights to shareholders; and

(d) Any provision that under this chapter is required or permitted to be set forth in the bylaws.

(3) The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.

(4) Provisions of the articles of incorporation may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with s. 607.0120(1).

(5) The articles of incorporation may not contain any provision that would impose liability on a shareholder for the attorney fees or expenses of the corporation or any other party in connection with an internal corporate claim, as defined in s. 607.0208.

Section 20. Subsections (1), (2), and (3) of section 607.0205, Florida Statutes, are amended to read:

Section 18. Subsection (2) of section 607.0203, Florida Statutes, is amended to read:

Section 19. Section 607.0204, Florida Statutes, is amended to read:

Section 20. Subsections (1), (2), and (3) of section 607.0205, Florida Statutes, are amended to read:

Page 63 of 458
CODING: Words beneath are deletions; words underlined are additions.
607.0206 Bylaws.—
(2) The bylaws of a corporation may contain any provision to the extent and subject to such procedures or conditions as are provided in the bylaws, provided that no bylaw so adopted shall apply to elections for which any record date precedes its adoption.

(4) The bylaws of a corporation may contain exclusive forum provisions to the extent allowed by s. 607.0208.

(5) Notwithstanding s. 607.1020(1)(b), the shareholders in amending, repealing, or adopting a bylaw described in subsection (3) may not limit the authority of the board of directors to amend or repeal any condition or procedure set forth in, or to add any procedure or condition to, such a bylaw to provide for a reasonable, practical, and orderly process.
590-03467A-19

(6) The bylaws may not contain any provision that would impose liability on a shareholder for the attorney fees or expenses of the corporation or any other party in connection with an internal corporate claim, as defined in s. 607.0208.

Section 22. Subsections (1), (3), (4), and (5) of section 607.0207, Florida Statutes, are amended to read:

607.0207 Emergency bylaws.—

(1) Unless the articles of incorporation provide otherwise, the board of directors of a corporation may adopt bylaws to be effective only in an emergency defined in subsection (5). The emergency bylaws, which are subject to amendment or repeal by the shareholders, may make all provisions necessary for managing the corporation during an emergency, including:

(a) Procedures for calling a meeting of the board of directors;

(b) Quorum requirements for the meeting; and

(c) Designation of additional or substitute directors.

(3) All provisions of the regular bylaws not inconsistent with the emergency bylaws remain effective during the emergency. The emergency bylaws are not effective after the emergency ends.

(4) Corporate action taken in good faith in accordance with the emergency bylaws:

(a) Binds the corporation; and

(b) May not be used to impose liability on a corporate director, officer, employee, or agent of the corporation.

(5) An emergency exists for purposes of this section if a quorum of the board of corporation's directors cannot readily be assembled because of some catastrophic event.
General powers.—Unless its articles of incorporation provide otherwise, every corporation has perpetual power:
(1) To sue and be sued, complain, and defend in its corporate name;
(2) To have a corporate seal, which may be altered at will and to use it or a facsimile of it, by impressing or affixing it or in any other manner reproducing it;
(3) To purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with real or personal property or any legal or equitable interest in property wherever located;
(4) To sell, convey, mortgage, pledge, create a security interest in, lease, exchange, and otherwise dispose of all or any part of its property;
(5) To lend money to, and use its credit to assist, its officers and employees in accordance with s. 607.0833;
(6) To purchase, receive, subscribe for, or otherwise acquire; own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and deal in and with shares or other interests in, or obligations of, any other entity;
(7) To make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other securities and obligations (which may be convertible into or include the option to purchase other securities of the corporation), and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income and make contracts of guaranty and suretyship which are necessary or convenient to the conduct,
Section 607.0303, Florida Statutes, is amended to read:

(3) Corporate action taken in good faith during an emergency under this section to further the ordinary business affairs of the corporation:

(a) Binds the corporation; and

(b) May not be used to impose liability on a corporate director, officer, employee, or agent of the corporation.
(4) No officer, director, or employee acting in accordance with any emergency bylaws shall be liable except for willful or intentional misconduct.

(5) An emergency exists for purposes of this section if a quorum of the board of directors cannot readily be assembled because of some catastrophic event.

Section 27. Section 607.0304, Florida Statutes, is amended to read:

607.0304 Lack of power to act Ultra vires.—

(1) Except as provided in subsection (2), the validity of corporate action, including, but not limited to, any conveyance, transfer, or encumbrance of real or personal property to or by a corporation, may not be challenged on the ground that the corporation lacks or lacked power to act.

(2) A corporation's power to act may be challenged:

(a) In a proceeding by a shareholder against the corporation to enjoin the act;

(b) In a proceeding by the corporation, directly, derivatively, or through a receiver, trustee, or other legal representative, or through shareholders in a representative suit, against an incumbent or former director, officer, employee, or agent of the corporation; or

(c) In a proceeding by the Department of Legal Affairs pursuant to s. 607.1403 or Attorney General, as provided in this act, to dissolve the corporation or in a proceeding by the Attorney General to enjoin the corporation from the transaction of unauthorized business.

(3) In a shareholder's proceeding under paragraph (2)(a) to enjoin an unauthorized corporate act, the court may enjoin or set aside the act, if equitable and if all affected persons are parties to the proceeding, and may award damages for loss (other than anticipated profits) suffered by the corporation or another party because of enjoining the unauthorized act.

Section 28. Section 607.0401, Florida Statutes, is amended to read:

607.0401 Corporate name.—

(1) A corporate name:

(a) Must contain the word "corporation," "company," or "incorporated" or the abbreviation "Corp.," or "Inc.," or "Co.," or the designation "Corp." or "Inc." or "Co." as will clearly indicate that it is a corporation instead of a natural person, partnership, or other eligible business entity.

(b) May not contain language stating or implying that the corporation is organized for a purpose other than that permitted in this chapter and its articles of incorporation.

(c) May not contain language stating or implying that the corporation is connected with a state or federal government agency or a corporation or other entity chartered under the laws of the United States.

(d) Must be distinguishable from the names of all other entities or filings that are on file with the department Division of Corporations, except fictitious name registrations pursuant to s. 865.09, general partnership registrations pursuant to s. 620.8105, and limited liability partnership statements pursuant to s. 620.9001 which are organized, registered, or reserved under the laws of this state. A name that is different from the name of another entity or filing due to any of the following is not considered distinguishable:

CODING: Words stricken are deletions; words underlined are additions.
A person may reserve the exclusive use of a corporate name, including an alternate name for a foreign corporation whose corporate name is not available, by delivering an application to the department for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the department finds that the corporate name applied for is available, it shall reserve the name for the exclusive use of the applicant for a nonrenewable period.

(2) The owner of a reserved corporate name may transfer the reservation to another person by delivering to the department a signed notice of the transfer that states the name and address of the transferee.

(3) The department may revoke any reservation if, after a hearing, it finds that the application therefor or any transfer thereof was not made in good faith.

Section 30. Subsections (1), (2), (5), and (6) of section 607.0403, Florida Statutes, are amended to read:

Section 29. Section 607.04021, Florida Statutes, is created to read:

607.04021 Reserved name.—

(1) A person may reserve the exclusive use of a corporate name, including an alternate name for a foreign corporation whose corporate name is not available, by delivering an application to the department for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the department finds that the corporate name applied for is available, it shall reserve the name for the exclusive use of the applicant for a nonrenewable period of 120 days.

(2) A foreign corporation registers its corporate name, or its corporate name with any addition required by s. 607.1506, if the name is distinguishable upon the records of the department from the corporate names that are not available under s. 607.0401(1)(d).

(2) A foreign corporation registers its corporate name, or its corporate name with any addition required by s. 607.1506, by delivering to the department of State for filing an application:

(a) Setting forth such name its corporate name, or its corporate name with any addition required by s. 607.1506, the state or country and date of its incorporation, and a brief description of the nature of the business that is to be conducted in this state in which it is engaged; and

(b) Accompanied by a certificate of existence, or a certificate setting forth that such corporation is in good
590-03467A-19 2019892c2

standing under the laws of the state or country wherein it is
organized (or a document of similar import), from the state or
country of incorporation.

(5) A foreign corporation the registration of which is
effective may thereafter qualify as a foreign corporation under
the registered name or consent in writing to the use of that
name by a corporation thereafter incorporated under this chapter
or by another foreign corporation thereafter authorized to
transact business in this state. The registration terminates
when the domestic corporation is incorporated or the foreign
corporation qualifies or consents to the qualification of
another foreign corporation under the registered name.

(6) The department of state may revoke any registration if,
after a hearing, it finds that the application therefor or any
renewal thereof was not made in good faith.

Section 31. Subsections (1), (3), (4), and (5) of section
607.0501, Florida Statutes, are amended, and subsection (7) is
added to that section, to read:

607.0501 Registered office and registered agent.—
(1) Each corporation shall designate have and continuously
maintain in this state:
(a) A registered office which may be the same as its place
of business in this state; and
(b) A registered agent, which must be who may be either:
1. An individual who resides in this state whose business
address office is identical the address of the with such
registered office;
2. Another domestic entity that is an authorized entity and
whose business address is identical to the address of the

Page 77 of 458
CODING: Words **stricken** are deletions; words **underlined** are additions.
(a) The name of the corporation.

(b) The name of its current registered agent. The street address of its current registered office for service of process and shall promptly furnish any information disclosed thereby promptly upon request and payment of the required fee.

(6) A corporation may not prosecute or maintain an action in a court in this state until the corporation complies with this section, pays to the department any amounts required under this chapter, and, to the extent ordered by a court of competent jurisdiction, with the provisions of this section or s. 607.1507, as applicable, and pays to the department a penalty of $5 for each day it has failed to so comply or $500, whichever is less.

(7) A court may stay a proceeding commenced by a corporation until the corporation complies with this section.

Section 32. Section 607.0502, Florida Statutes, is amended to read:

607.0502 Change of registered office or registered agent.—

(1) In order to change its registered agent or registered office address, a corporation may deliver to the department for filing change its registered office or its registered agent upon filing with the Department of State a statement of change containing the following language:

(a) The name of the corporation.

(b) The name of its current registered agent. The street address of its current registered office for service of process and shall promptly furnish any information disclosed thereby promptly upon request and payment of the required fee.

(c) If the current registered agent is to be changed, the name of the new registered agent.

(4) The changes described in this section may also be made on the corporation’s annual report, in an application for reinstatement filed with the department under s. 607.1622, or in an application for reinstatement filed with the department under s. 607.1622, or in an application for reinstatement filed with the department under s. 607.1622, or in an application for reinstatement filed with the department under s. 607.1622.
an amendment to or restatement of a company's articles of incorporation in accordance with s. 607.1006 or s. 607.1007. Any registered agent may resign his or her agency appointment by signing and delivering for filing with the Department of State a statement of resignation and mailing a copy of such statement to the corporation at its principal office address shown in its most recent annual report or, if none, filed in the articles of incorporation or other most recently filed document. The statement of resignation shall state that a copy of such statement has been mailed to the corporation at the address so stated. The agency is terminated as of the 31st day after the date on which the statement was filed and unless otherwise provided in the statement, termination of the agency acts as a termination of the registered office.

(3) If a registered agent changes his or her business name or business address, he or she may change such name or address and the address of the registered office of any corporation for which he or she is the registered agent by:

(a) Notifying all such corporations in writing of the change,

(b) Signing (either manually or in facsimile) and delivering to the Department of State for filing a statement that substantially complies with the requirements of paragraphs (1)(e) and (2)(c) representing the names of all such corporations; and

(c) Notifying that each corporation has been notified of the change.

(4) Changes of the registered office or registered agent may be made by a change on the corporation’s annual report form filed with the Department of State.

(4)(a) The Department of State shall collect a fee pursuant to s. 111.222(3) for the filings authorized under this section.

SECTION 33. Section 607.0503, Florida Statutes, is created to read:

607.0503 Resignation of registered agent.—

(1) A registered agent may resign as agent for a corporation by delivering to the department for filing a signed statement of resignation containing the name of the corporation.

(2) After delivering the statement of resignation to the department for filing, the registered agent must promptly mail a copy to the corporation at its current mailing address.

(3) A registered agent is terminated upon the earlier of:

(a) The 31st day after the department files the statement of resignation; or

(b) When a statement of change or other record designating a new registered agent is filed by the department.

(4) When a statement of resignation takes effect, the registered agent ceases to have responsibility for a matter thereafter tendered to it as agent for the corporation. The resignation does not affect contractual rights that the corporation has against the agent or that the agent has against the corporation.

(5) A registered agent may resign from a corporation regardless of whether the corporation has active status.

SECTION 34. Section 607.05031, Florida Statutes, is created to read:

607.05031 Change of name or address by registered agent.—

(1) If a registered agent changes its name or address, the
agent may deliver to the department for filing a statement of change that provides the following:

(a) The name of the corporation represented by the registered agent.

(b) The name of the registered agent as currently shown in the records of the department for the corporation.

(c) If the name of the registered agent has changed, its new name.

(d) If the address of the registered agent has changed, the new address.

(e) A statement that the registered agent has given the notice required under subsection (2).

(2) A registered agent shall promptly furnish notice of the statement of change and the changes made by the statement filed with the department to the represented corporation.

Section 35. Section 607.05032, Florida Statutes, is created to read:

607.05032 Delivery of notice or other communication.—

(1) Except as otherwise provided in this chapter, permissible means of delivery of a notice or other communication includes delivery by hand, the United States Postal Service, a commercial delivery service, and electronic transmission, all as more particularly described in s. 607.0141.

(2) Except as provided in subsection (3), delivery to the department is effective only when a notice or other communication is received by the department.

(3) If a check is mailed to the department for payment of an annual report fee or the annual supplemental fee required under s. 607.193 and the check is received by the department, the check shall be deemed to have been received by the department as of the postmark date appearing on the envelope or package transmitting the check.

Section 36. Section 607.0504, Florida Statutes, is amended to read:

607.0504 Service of process, notice, or demand on a corporation.—

(1) A corporation may be served with process required or authorized by law by serving on its registered agent.

(2) If a corporation ceases to have a registered agent or if its registered agent cannot with reasonable diligence be served, the process required or permitted by law may instead be served on the chair of the board, the president, any vice president, the secretary, or the treasurer of the corporation at the principal office of the corporation in this state.

(3) If the process cannot be served on a corporation pursuant to subsection (1) or subsection (2), the process may be served on the secretary of state as an agent of the corporation.

(4) Service of process on the secretary of state shall be made by delivering to and leaving with the department duplicate copies of the process.

(5) Service is effectuated under subsection (3) on the date shown as received by the department.

(6) The department shall keep a record of each process served on the secretary of state pursuant to this subsection and record the time of and the action taken regarding the service.

(7) Any notice or demand on a corporation under this chapter may be given or made to the chair of the board, the president, any vice president, the secretary, or the treasurer...
Section 37. Paragraph (a) of subsection (1) and subsections (5), (6), (10), and (12) of section 607.0505, Florida Statutes, are amended to read:

607.0505 Registered agent; duties.—

(1)(a) Each corporation, foreign corporation, or alien business organization that owns real property located in this state, that owns a mortgage on real property located in this state, or that transacts business in this state shall have and continuously maintain in this state a registered office and a registered agent and shall file with the department of state notice of the registered office and registered agent as provided by law.

(b) A corporation, foreign corporation, or alien business organization shall continuously maintain in this state a registered office and a registered agent and shall file with the department of state notice of the registered office and registered agent in the form prescribed by the department.

(c) In the case of a corporation, foreign corporation, or alien business organization that is found or that owns real property located in this state, that maintains a registered office in a county other than the county in which the action is pending, the corporation, foreign corporation, or alien business organization shall continuously maintain in this state a registered office and a registered agent and shall file with the department of state notice of the registered office and registered agent as provided by law.

(d) A corporation, foreign corporation, or alien business organization that maintains a registered office and a registered agent within this state in compliance with subsection (c), or that transacts business or in which real property belonging to the corporation, foreign corporation, or alien business organization is located, for an order compelling compliance with the subpoena.

(8) This section does not affect the right to serve process, give notice, or make a demand in any other manner provided by law. Process against any corporation may be served in accordance with chapter 48 or chapter 12.

(2) Any notice to or demand on a corporation under this act may be made to the chair of the board, the president, any vice president, the secretary, or the treasurer; to the registered agent of the corporation at the registered office of the corporation in this state; or to any other address in this state that is in fact the principal office of the corporation in this state.

(3) This section does not prescribe the only means, or necessarily the required means, of serving notice or demand on a corporation.

Section 37. Paragraph (a) of subsection (1) and subsections (5), (6), (10), and (12) of section 607.0505, Florida Statutes, are amended to read:

607.0505 Registered agent; duties.—

(1)(a) Each corporation, foreign corporation, or alien business organization that owns real property located in this state, that owns a mortgage on real property located in this state, or that transacts business in this state shall have and continuously maintain in this state a registered office and a registered agent and shall file with the department of state notice of the registered office and registered agent as provided by law.

(b) A corporation, foreign corporation, or alien business organization shall continuously maintain in this state a registered office and a registered agent and shall file with the department of state notice of the registered office and registered agent in accordance with chapter 48 or chapter 12.

(c) In the case of a corporation, foreign corporation, or alien business organization that is found or that transacts business in this state shall have and continuously maintain in this state a registered office and a registered agent and shall file with the department of state notice of the registered office and registered agent as provided by law.

(d) A corporation, foreign corporation, or alien business organization that maintains a registered office and a registered agent within this state in compliance with subsection (c), or that transacts business or in which real property belonging to the corporation, foreign corporation, or alien business organization is located, for an order compelling compliance with the subpoena.

(8) This section does not affect the right to serve process, give notice, or make a demand in any other manner provided by law. Process against any corporation may be served in accordance with chapter 48 or chapter 12.

(2) Any notice to or demand on a corporation under this act may be made to the chair of the board, the president, any vice president, the secretary, or the treasurer; to the registered agent of the corporation at the registered office of the corporation in this state; or to any other address in this state that is in fact the principal office of the corporation in this state.

(3) This section does not prescribe the only means, or necessarily the required means, of serving notice or demand on a corporation.
become a judgment lien against any real property owned by the
2496 corporation, foreign corporation, or alien business organization
2497 when a certified copy of the judgment or order is recorded as
2498 required by s. 55.10. The Department of Legal Affairs will be
2499 able to avail itself of, and is entitled to use, any provision
2500 of law or of the Florida Rules of Civil Procedure to further the
2501 collecting or obtaining of payment pursuant to a judgment or
2502 order of payment. The state, through the Attorney General, may
2503 bid, at any judicial sale to enforce its judgment lien, an
2504 amount up to the amount of the judgment or lien obtained
2505 pursuant to this subsection. All moneys recovered under this
2506 subsection shall be treated as forfeitures under ss. 895.01-
2507 895.09 and used or distributed in accordance with the procedure
2508 set forth in s. 895.09.
2509
2510 (6) Information provided to, and records and transcriptions
2511 of testimony obtained by, the Department of Legal Affairs
2512 pursuant to this section are confidential and exempt from the
2513 provisions of s. 119.07(1) while the investigation is active. For purposes of this section, an investigation shall be
considered “active” while such investigation is being conducted
with a reasonable, good faith belief that it may lead to the
filing of an administrative, civil, or criminal proceeding. An
investigation does not cease to be active so long as the
Department of Legal Affairs is proceeding with reasonable
dispatch and there is a good faith belief that action may be
initiated by the Department of Legal Affairs or other
administrative or law enforcement agency. Except for active
criminal intelligence or criminal investigative information, as
defined in s. 119.011, and information which, if disclosed,

would reveal a trade secret, as defined in s. 688.002, or would
jeopardize the safety of an individual, all information, records, and transcriptions become public record when the
investigation is completed or ceases to be active. The Department of Legal Affairs shall not disclose confidential
information, records, or transcriptions of testimony except pursuant to the authorization by the Attorney General in any of
the following circumstances:

(a) To a law enforcement agency participating in or
conducting a civil investigation under chapter 895, or
participating in or conducting a criminal investigation.
(b) In the course of filing, participating in, or
conducting a judicial proceeding instituted pursuant to this
section or chapter 895.
(c) In the course of filing, participating in, or
conducting a judicial proceeding to enforce an order or judgment
entered pursuant to this section or chapter 895.
(d) In the course of a criminal or civil proceeding.

A person or law enforcement agency which receives any
information, record, or transcription of testimony that has been
made confidential by this subsection shall maintain the
confidentiality of such material and shall not disclose such
information, record, or transcription of testimony except as
provided for herein. Any person who willfully discloses any
information, record, or transcription of testimony that has been
made confidential by this subsection, except as provided for
herein, is guilty of a misdemeanor of the first degree,
punishable as provided in s. 775.082 or s. 775.083. If any
The articles of incorporation must set forth any class, and the number of shares of each class and series, that the corporation is authorized to issue. If more than one class or series of shares is authorized, the articles of incorporation must prescribe a distinguishing designation for each class or series, and before the issuance of shares of a class or series, describe the terms, including the preferences, limitations, and relative rights of that class or series as those with other shares of the same class or series, except to the extent otherwise permitted by this section, s. 607.0602, or s. 607.0624.

(2) The articles of incorporation must authorize:
(a) One or more classes or series of shares that together have unlimited voting rights, and
(b) One or more classes or series of shares (which may be the same class or classes or series as those with voting rights) that together are entitled to receive the net assets of the corporation upon dissolution.

(3) The articles of incorporation may authorize one or more classes or series of shares that:
(a) Have special, conditional, or limited voting rights, or no right to vote, except to the extent otherwise provided prohibited by this chapter act;
(b) Are redeemable or convertible as specified in the articles of incorporation:
1. At the option of the corporation, the shareholder, or another person or upon the occurrence of a specified designated...
If the articles of incorporation so provide, the board of directors may determine, in whole or part, the preferences, limitations, and relative rights (within the limits set forth in s. 607.0601) of:

(a) Classify any unissued class of shares into one or more classes or into one or more series within a class; before the issuance of any shares of that class, or

(b) Reclassify any unissued shares of any class into one or more classes or into one or more series within one or more classes; or

(c) Reclassify any unissued shares of any series of any class into one or more classes or into one or more series within a class before the issuance of any shares of that series.

(2) If the board of directors acts pursuant to subsection (1), it shall determine the terms, including the preferences, limitations, and relative rights, to the extent allowed under s. 607.0601, of:

(a) Any class of shares before the issuance of any shares of that class; or

(b) Any series within a class before the issuance of any shares of that series.

(3) Each class and each series of a class must be given a distinguishing designation.

(4) All shares of a series must have preferences, limitations, and relative rights identical with those of other shares of the same series and, except to the extent otherwise provided in the description of the series, of those of other series of the same class.

(5) Before issuing any shares of a class or series created under this section, the corporation shall deliver:

- Terms of class or series determined by board of directors.

- Shareholders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative, or partially cumulative.

- Have preference over any other class or series of shares with respect to distributions, including dividends and distributions upon the dissolution of the corporation.

- The description of the designations, preferences, limitations, and relative rights of share classes or series in subsection (3) is not exhaustive.

- The terms of shares may be made dependent on facts ascertainable outside the articles of incorporation in accordance with s. 607.0120(11).

Shares which are entitled to preference in the distribution of dividends or assets shall not be designated as common shares. Shares which are not entitled to preference in the distribution of dividends or assets shall be common shares and shall not be designated as preferred shares.
to the department of State for filing articles of amendment, which are effective without shareholder action, that set forth:
(a) The name of the corporation;
(b) The text of the amendment determining the terms of the class or series of shares;
(c) The date the amendment was adopted; and
(d) A statement that the amendment was duly adopted by the board of directors.

Section 40. Subsections (1), (2), (4), and (5) of section 607.0604, Florida Statutes, are amended to read:
607.0604 Fractional shares.—
(1) A corporation may:
(a) Issue fractions of a share or, in lieu of doing so, pay in money the fair value of fractions of a share;
(b) Make arrangements, or provide reasonable opportunity, for any person entitled to or holding a fractional interest in a share to sell such fractional interest or to purchase such additional fractional interests as may be necessary to acquire a full share;
(c) Issue scrip in registered or bearer form, over the manual or facsimile signature of an officer of the corporation or its agent, entitling the holder to receive a full share upon surrendering enough scrip to equal a full share.
(2) The board of directors may authorize the issuance of scrip subject to any condition considered desirable, including that:
(a) That the scrip will become void if not exchanged for full shares before a specified date; and
(b) That the shares for which the scrip is exchangeable may be sold and the proceeds paid to the scripholders.
(4) The holder of a fractional share is entitled to exercise the rights of a shareholder, including the right to vote, to receive dividends, and to receive distributions upon dissolution, participate in the assets of the corporation upon liquidation. The holder of scrip is not entitled to any of these rights unless the scrip provides for them.
(5) When a corporation is to pay in money the value of fractions of a share, the good faith judgment of the board of directors as to the fair value shall be conclusive.

Section 41. Subsections (2) and (5) of section 607.0620, Florida Statutes, are amended, and subsection (6) is added to that section, to read:
607.0620 Subscriptions for shares.—
(2) A subscription for shares, whether made before or after incorporation, is not enforceable against the subscriber unless in writing and signed by the subscriber.
(5) If a subscriber defaults in payment of money or property under a subscription agreement entered into before incorporation, the corporation may collect the amount owed as any other debt. Alternatively, unless the subscription agreement provides otherwise, the corporation may rescind the agreement and may sell the shares if the debt remains unpaid more than 20 days after the corporation delivers demand for payment to the subscriber. If the subscription agreement is rescinded and the shares sold, then, notwithstanding the rescission, if mailed, such written demand shall be deemed to be made when deposited in the United States mail in a sealed envelope addressed to the subscriber at his or her last post.
postage thereon prepaid, the defaulting subscriber or his or her legal representative shall be entitled to be paid the excess of the sale proceeds over the sum of the amount due and unpaid on the subscription and the reasonable expenses incurred in selling the shares, but in no event shall the defaulting subscriber or his or her legal representative be entitled to be paid an amount greater than the amount paid by the subscriber on the subscription.

(6) A subscription agreement entered into after incorporation is also subject to s. 607.0621.

Section 42. Subsection (5) of section 607.0621, Florida Statutes, is amended to read:

(5) The corporation may place in escrow shares issued for a contract for future services or benefits or a promissory note, or make other arrangements to restrict the transfer of the shares, and may credit distributions in respect of the shares against their purchase price, until the services are performed, the note is paid, or the benefits received. If the services are not performed, the note is not paid, or the benefits are not received, the shares escrowed or restricted and the distributions credited may be canceled in whole or part.

Section 43. Subsection (5) of section 607.0622, Florida Statutes, is amended to read:

(5) No liability under this section may be asserted more than 5 years after the earlier of:

(a) The issuance of the shares stock, or

(b) The date of the subscription upon which the assessment is sought.

Section 44. Subsections (1) and (3) of section 607.0623, Florida Statutes, are amended to read:

607.0623 Share dividends.—

(1) Unless the articles of incorporation provide otherwise, shares may be issued pro rata and without consideration to the corporation’s shareholders or to the shareholders of one or more classes or series or shares. An issuance of shares under this subsection is a share dividend.

(3) The board of directors may fix the record date for determining shareholders entitled to a share dividend, but the date may not be retroactive. If the board of directors does not fix the record date for determining shareholders entitled to a share dividend, the record date is the date the board of directors authorizes the share dividend.

Section 45. Section 607.0624, Florida Statutes, is amended to read:

607.0624 Share rights, options, warrants, and awards.—

(1) Unless the articles of incorporation provide otherwise, a corporation may issue rights, options, or warrants for the purchase of shares of the corporation of any class or series, whether authorized but unissued shares of the corporation, treasury shares, or shares of the corporation to be purchased or acquired by the corporation. The board of directors shall determine the terms and conditions upon which the rights, options, or warrants are issued, including the consideration for which the shares are to be issued. The authorization by the board of directors for the corporation to issue such rights,
options, or warrants constitutes authorization for the issuance of the shares for which the rights, options, or warrants are exercisable their form and content, and the consideration for which the shares are to be issued.

(2) The terms and conditions of such stock rights, and options, or warrants, including those outstanding on January 1, 2020, may include restrictions or conditions that:

(a) Preclude or limit the exercise, transfer, or receipt of such rights, options, or warrants by any person or persons owning or offering to acquire a specified number or percentage of the outstanding shares of the corporation or by any transferee or transferees of any such person or persons; or

(b) which are created and issued by a corporation formed under this chapter, or its successor, and which entitle the holders thereof to purchase from the corporation shares of any class or classes, whether authorized but unissued shares, treasury shares, or shares to be purchased or acquired by the corporation, may include, without limitation, restrictions, or conditions that preclude or limit the exercise, transfer, receipt, holding of such rights or options by any person or persons, including any person or persons owning or offering to acquire a specified number or percentage of the outstanding common shares or other securities of the corporation, or any transferee or transferee of any such person or persons, or that invalidate or void such rights, or options, or warrants held by any such person or persons or any such transferee or transferees.

(3) The board of directors may authorize a board committee or the board of directors may authorize one or more officers, or

(a) Designate the recipients of rights, options, warrants, or other equity compensation awards that involve the issuance of shares; and

(b) Determine, within an amount and subject to any other limitations established by the board of directors, a board committee, and, if applicable, the shareholders, the number of such rights, options, warrants, or other equity compensation awards and the terms and conditions of such rights, options, warrants, or awards to be received by the recipients, provided that an officer may not use such authority to designate himself or herself or any other persons as the board of directors or a committee of the board may specify as a recipient of such rights, options, warrants, or other equity compensation awards.

(4) For purposes of this section, the term "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

Section 46. Subsections (1), (2), and (3) of section 607.0625, Florida Statutes, are amended to read:

607.0625 Form and content of certificates.—

(1) Shares may but need not be represented by certificates. Unless this chapter or another statute expressly provides otherwise, the rights and obligations of shareholders are identical, regardless of whether their shares are represented by certificates.

(a) At a minimum, each share certificate must state on its face:

(i) The name of the issuing corporation and that the

CODING: Words \textbf{stricken} are deletions; words \underline{underlined} are additions.
corporation is organized under the laws of this state;
(b) The name of the person to whom issued; and
(c) The number and class of shares and the designation of
the series, if any, the certificate represents.

(3) If the issuing corporation is authorized to issue
different classes of shares or different series of shares within
a class, the designations, relative rights, preferences, and
limitations applicable to each class and the variations in
rights, preferences, and limitations determined for each series
(and the authority of the board of directors to determine
variations for future series) must be summarized on the front or
back of each certificate. Alternatively, each certificate may
state conspicuously on its front or back that the corporation
will furnish the shareholder a full statement of this
information on request and without charge.

Section 47. Section 607.0626, Florida Statutes, is amended
to read:
607.0626 Shares without certificates.—
(1) Unless the articles of incorporation or bylaws provide
otherwise, the board of directors of a corporation may authorize
the issuance issue of some or all of the shares of any or all of
its classes or series without certificates. The authorization
does not affect shares already represented by certificates until
they are surrendered to the corporation.

(2) Within a reasonable time after the issuance issue or
transfer of shares without certificates, the corporation shall
deliver to each the shareholder a written statement of the
information required on certificates by s. 607.0625(2) and (3),
and, if applicable, s. 607.0627.

(c) There is no preemptive right with respect to:
1. Shares issued as compensation to directors, officers,
Florida Senate - 2019
CS for CS for SB 892

590-03467A-19
2019892c2

agents, or employees of the corporation, or its subsidiaries, or affiliates;

2. Shares issued to satisfy conversion or option rights created to provide compensation to directors, officers, agents, or employees of the corporation, or its subsidiaries, or affiliates;

3. Shares authorized in the articles of incorporation that are issued within 6 months from the effective date of

4. Shares issued pursuant to a plan of reorganization approved by a court of competent jurisdiction pursuant to a law of this state or of the United States; or

5. Shares issued for consideration other than money.

(d) Holders of shares of any class or series without general voting rights but with preferential rights to distributions to receive the net assets upon dissolution and liquidation have no preemptive rights with respect to shares of any class or series.

(e) Holders of shares of any class or series with general voting rights but without preferential rights to distributions or net assets upon dissolution or liquidation have no preemptive rights with respect to shares of any class or series with preferential rights to receive the net assets of the corporation upon dissolution distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire the shares without preferential rights.

Section 50. Subsections (3) and (5) of section 607.0631, Florida Statutes, are amended, and subsection (6) is added to that section, to read:

Distributions to shareholders.—
(2) The board of directors may fix the record date for

CODING: Words stricken are deletions; words underlined are additions.
determining shareholders entitled to a distribution, but the
date may not be retroactive. If the board of directors does not
fix the record date for determining shareholders entitled to a
distribution (other than one involving a purchase, redemption,
or other acquisition of the corporation’s shares), the record
date is the date the board of directors authorizes the
distribution.

(3) No distribution may be made if, after giving it effect:
(a) The corporation would not be able to pay its debts as
they become due in the usual course of the corporation’s
activities and affairs business; or
(b) The corporation’s total assets would be less than the
sum of its total liabilities plus (unless the articles of
incorporation permit otherwise) the amount that would be needed,
if the corporation were to be dissolved and wound up at the time
of the distribution, to satisfy the preferential rights upon
dissolution and winding up of shareholders whose preferential
rights are superior to those receiving the distribution.

(4) The board of directors may base a determination that a
distribution is not prohibited under subsection (3) on:
(a) either on financial statements prepared on the basis of
accounting practices and principles that are reasonable in the
circumstances; or
(b) A fair valuation or other method that is reasonable
under in the circumstances. In the case of any distribution
based upon such a valuation, each such distribution shall be
identified as a distribution based upon a current valuation of
assets, and the amount per share paid on the basis of such
valuation shall be disclosed to the shareholders concurrent with
their receipt of the distribution.

(6) Except as provided in subsection (8), the effect of a
distribution under subsection (3) is measured:
(a) In the case of a distribution by purchase, redemption,
or other acquisition of the corporation’s shares, as of the
earlier of the date on which:
1. The date money or other property is transferred or the
debt to a shareholder is incurred by the corporation, or
2. The date the shareholder ceases to be a shareholder with
respect to the acquired shares;
(b) In the case of any other distribution of
indebtedness, as of the date on which the indebtedness is
distributed;
(c) In all other cases, as of the date on which:
1. The date the distribution is authorized if the payment
occurs within 120 days after that date; the date at
authorization, or
2. The date the payment is made if the payment occurs
more than 120 days after the date the distribution is authorized
of authorization,
(7) A corporation’s indebtedness to a shareholder incurred
by reason of a distribution made in accordance with this section
is at parity with the corporation’s indebtedness to its general,
unsecured creditors except to the extent provided otherwise
subordinated by agreement. The obligation to pay such
indebtedness may be secured by a lien on assets of the
corporation if not prohibited by a law other than this chapter.

(8) Indebtedness of a corporation, including indebtedness
issued as a distribution, is not considered a liability for
purposes of determinations under subsection (3) if the terms of
the indebtedness so term provide that payment of principal and
interest is made only if and to the extent that payment of a
distribution to shareholders could then be made under this
section. If such the indebtedness is issued as a distribution,
and by its terms provides that the payments each payment of
principal or interest are made only to the extent is treated as
a distribution could be made under this section, then each
payment of principal and interest of that indebtedness is
treated as a distribution, the effect of which is measured on
the date the payment is actually made.

(3) The failure to hold the annual meeting at the time

(9) This section does not apply to distributions in
liquidation under ss. 607.1401-607.1401,

Section 52. Section 607.0701, Florida Statutes, is amended
to read:

607.0701 Annual meeting.—

(1) Unless directors are elected by written consent in lieu
of an annual meeting pursuant to s. 607.0704, a corporation
shall hold a meeting of shareholders annually, for the election
of directors and for the transaction of any proper business, at
a time stated in or fixed in accordance with the bylaws.

(2) Annual shareholders’ meetings of shareholders may be
held in or out of this state at a place stated in or fixed in
accordance with the bylaws or, when not inconsistent with the
bylaws, stated in the notice of the annual meeting. If no place
is stated in or fixed in accordance with the bylaws, or stated
in the notice of the annual meeting, annual meetings shall be
held at the corporation’s principal office.

(3) The failure to hold the annual meeting at the time

Page 105 of 458

CODING: Words [stricken] are deletions; words [underlined] are additions.
special meeting, special meetings shall be held at
notice of the special meeting, special meetings shall be held at

(1) A corporation shall hold a special meeting of
shareholders:

(a) On call of its board of directors or the person or
persons authorized to do so by the articles of incorporation or
bylaws; or

(b) If shareholders holding the holders of not less than 10
percent, unless a greater percentage not to exceed 50 percent is
required by the articles of incorporation, of all the votes
entitled to be cast on any issue proposed to be considered at
the proposed special meeting sign, date, and deliver to the
corporation’s secretary one or more written demands for the
meeting describing the purpose or purposes for which it is to be
held. Unless otherwise provided in the articles of
incorporation, a written demand for a special meeting may be
revoked by a writing to that effect received by the corporation
prior to the receipt by the corporation of demands sufficient in
number to require the holding of a special meeting.

(2) Special meetings of shareholders’ meetings may be held in or out of the state at a place stated in or fixed
in accordance with the bylaws or, when not inconsistent with the
bylaws, in the notice of the special meeting. If no place is
stated in or fixed in accordance with the bylaws or in the
notice of the special meeting, special meetings shall be held at
the corporation’s principal office.

(3) Only business within the purpose or purposes described
in the special meeting notice required by s. 607.0705 may be
conducted at a special meeting of shareholders or proxy holders at a
special meeting of shareholders may, by means of remote
communications:

(a) Participate in a special meeting of shareholders.

(b) Be deemed present in person and vote at a special
meeting of shareholders, whether such meeting is to be held at a
designated place or solely by means of remote communication,
provided that:

1. The corporation shall implement reasonable measures to
verify that each person deemed present and permitted to vote at
the special meeting by means of remote communication is a
shareholder or proxy holder;

2. The corporation shall implement reasonable measures to
provide such shareholders or proxy holders a reasonable
opportunity to participate in the special meeting and to vote on
matters submitted to the shareholders, including, without
limitation, an opportunity to communicate and to read or hear
the proceedings of the special meeting substantially
concurrently with such proceedings; and

CODING: Words [stricken] are deletions; words [underlined] are additions.
Section 54. Section 607.0703, Florida Statutes, is amended to read:

607.0703 Court-ordered meeting.—

(1) The circuit court in the applicable county may summary of the county where a corporation’s principal office is located, if located in this state, or where a corporation’s registered office is located if its principal office is not located in this state, may, after notice to the corporation, order a meeting to be held:

(a) On application of any shareholder of the corporation entitled to vote at an annual meeting if neither an annual meeting has been held nor an action by written consent in lieu thereof has become effective within any 15-month period; or

(b) On application of one or more shareholders a shareholder who signed a demand for a special meeting valid under s. 607.0702, if:

1. Notice of the special meeting was not given within 60 days after the first day on which the requisite number of demands have been date the demand was delivered to the corporation’s secretary; or

2. The special meeting was not held in accordance with the notice.

(2) The court may fix the time and place of the meeting, determine the shares entitled to participate in the meeting, specify a record date or dates for determining shareholders entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum by voting group required for matters to be considered at the meeting (or direct that the votes of a voting group represented at the meeting constitute a quorum of such voting group for action on those matters), and enter other orders necessary to accomplish the purpose or purposes of the meeting as may be appropriate.

Section 55. Subsections (1), (3), (4), and (5) of section 607.0704, Florida Statutes, are amended, and subsections (7) and (8) are added to that section, to read:

607.0704 Action by shareholders without a meeting.—

(1) Unless otherwise provided in the articles of incorporation or in subsection (9), action required or permitted by this chapter and to be taken at an annual or special meeting of shareholders may be taken without a meeting, without prior notice, and without a vote if the action is taken by the holders of outstanding shares stock of each voting group entitled to vote thereon having not less than the minimum number of votes with respect to each voting group that would be necessary to authorize or take such action at a meeting at which all voting groups and shares entitled to vote thereon were present and voted. In order to be effective the action must be evidenced by one or more written consents describing the action taken, dated and signed by approving shareholders having the requisite number of votes of each voting group entitled to vote thereon, and delivered to the corporation by delivery to its principal office in this state, its principal place of business, the corporate secretary, or another officer or agent of the corporation having
(3) Within 10 days after either written consents sufficient to authorize or take the action have been delivered to the corporation or such later date that tabulation of consents is completed pursuant to an authorization under subsection (4), obtaining such authorization by written consent, notice must be given to those shareholders who have not consented in writing or who are not entitled to vote on the action. The notice shall fairly summarize the material features of the authorized action and, if the action be such for which appraisal dissenters’ rights are provided under this chapter, the notice shall contain a clear statement of the right of shareholders entitled to assert appraisal rights under this chapter with respect to the action, dissenting therefrom, to be paid the fair value of their shares upon compliance with further provisions of this chapter regarding the rights of dissenting shareholders entitled to assert appraisal rights under this chapter with respect to the action.

(4) A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

Unless the articles of incorporation, bylaws, or a resolution of holders required to authorize or take the action have been delivered to the corporation by delivery as set forth in this section.

(5) In the event that the action to which the shareholders consent is such as would have required the filing of a certificate under any other section of this chapter if such action had been voted on by shareholders at a meeting thereof, the certificate filed under such other section shall state that written consent has been given in accordance with the provisions of this section.

(7) The notice requirements in subsection (3) do not delay the effectiveness of actions taken by written consent, and a failure to comply with such notice requirement does not invalidate actions taken by written consent. This subsection may not be deemed to limit judicial power to fashion any appropriate remedy in favor of a shareholder adversely affected by a failure to give such notice within the required time period.

(8) If a corporation’s articles of incorporation authorize shareholders to cumulate their votes when electing directors pursuant to s. 607.0728, directors may not be elected by written consent of the shareholders unless the consent is unanimous.

Section 56. Section 607.0705, Florida Statutes, is amended to read:

607.0705 Notice of meeting.—

(1) A corporation shall notify shareholders of the date, time, and place of each annual and special shareholders’ meeting...
no fewer than 10 or more than 60 days before the meeting date. The notice must include the record date for determining the shareholders entitled to vote at the meeting if the record date for determining the shareholders entitled to vote at the meeting is different than the record date for determining shareholders entitled to notice of the meeting. If the board of directors has authorized participation by means of remote communication pursuant to s. 607.0709 for any class or series of shares, the notice to the holders of such class or series must describe the means of remote communication to be used. Unless this chapter or the articles of incorporation require otherwise, the corporation is required to give notice only to shareholders entitled to vote at the meeting as of the record date for determining the shareholders entitled to notice of the meeting.

Notice shall be given in the manner provided in s. 607.0141, by or at the direction of the president, the secretary, or the officer or persons calling the meeting. If the notice is mailed at least 30 days before the date of the meeting, it may be done by a class of United States mail other than first class. Notwithstanding s. 607.0141, if mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the shareholder at her or his address as it appears in the record of shareholders of the corporation, maintained in accordance with s. 607.1601(4) on the stock transfer books of the corporation, with postage thereon prepaid.

(2) Unless this chapter or the articles of incorporation require otherwise, notice of an annual meeting of shareholders need not include a description of the purpose or purposes for which the meeting is called.
Section 57. Subsection (1) of section 607.0706, Florida Statutes, is amended to read:

Section 57. Subsection (1) of section 607.0706, Florida Statutes, is amended to read:

(1) A shareholder may waive any notice required by this chapter or, the articles of incorporation, or bylaws before or after the date and time stated in the notice. The waiver must be in writing, be signed by the shareholder entitled to the notice, and be delivered to the corporation for filing by the corporation with inclusion in the minutes or filing with the corporate records. Neither the business to be transacted at nor the purpose of any regular or special meeting of the shareholders need be specified in any written waiver of notice unless so required by the articles of incorporation or the bylaws.

Section 58. Subsections (1), (3), (4), (6), and (7) of section 607.0707, Florida Statutes, are amended, and subsections (8), (9), and (10) are added to that section, to read:

607.0707 Record date.—

(1) The bylaws may fix or provide the manner of fixing the record date or dates for one or more voting groups in order to determine the shareholders entitled to notice of a shareholders’ meeting, to demand a special meeting, to vote, or to take any other action. If the bylaws do not fix or provide for fixing such a record date, the board of directors of the corporation may fix the record date. In no event may a record date fixed by the board of directors be a date preceding the date upon which the resolution fixing the record date is adopted.

(3) The bylaws may fix or provide the manner of fixing the record date for determining shareholders entitled to take action by the written consent of shareholders. If not otherwise provided by or pursuant to the bylaws, the board of directors of the corporation may set a record date for determining shareholders entitled to take action by the written consent of shareholders. In no event may a record date fixed by the board of directors be a date preceding the date upon which the resolution fixing the record date is adopted. If the bylaws do not fix or provide for the manner of fixing such a record date and if no such record date is fixed by the board of directors, the record date for determining shareholders entitled to take such action shall be the date that the first signed written
consent is delivered to the corporation pursuant to s. 607.0704.
If not otherwise provided by or pursuant to the bylaws, or
prior action is required by the board of directors pursuant to
this act, the record date for determining shareholders entitled
to take action without a meeting is the date the first signed
written consent is delivered to the corporation under s.
607.0704. If not otherwise fixed, and prior action is required
by the board of directors pursuant to this chapter, the record
data for determining shareholders entitled to take action
without a meeting is at the close of business on the day on
which the board of directors adopts the resolution taking such
prior action.
(4) If not otherwise provided by or pursuant to the bylaws,
or by a court order pursuant to s. 607.0703, the record date for
determining shareholders entitled to notice of and to vote at an
annual or special shareholders’ meeting is the close of business
on the day before the first notice is delivered to shareholders.
(6) A determination of shareholders entitled to notice of
or to vote at a shareholders’ meeting is effective for any
adjournment of the meeting unless the board of directors fixes a
new record date or dates, which it must do if the meeting is
adjourned to a date more than 120 days after the date fixed for
the original meeting.
(7) If a court orders a meeting adjourned to a date more
than 120 days after the date fixed for the original meeting, it
may provide that the original record date or dates continues in
effect or it may fix a new record date or dates.
(8) The record date for a shareholders’ meeting fixed by or
in the manner provided in the bylaws or by the board of
607.0702(1)(b) have been delivered to the corporation.
607.0709 Remote participation in annual and special
meetings of shareholders.
(1) Shareholders of any voting group, other persons entitled to vote on behalf of shareholders pursuant to s. 607.0721, attorneys in fact for shareholders, and holders of proxies appointed pursuant to s. 607.0722 may participate in any annual or special meeting of shareholders by means of remote communication to the extent the board of directors authorizes such participation for such voting group. Participation by means of remote communication is subject to such guidelines and procedures as the board of directors adopts, and must be in conformity with subsection (2).

(2) Shareholders, other persons entitled to vote on behalf of shareholders pursuant to s. 607.0721, attorneys in fact for shareholders, and holders of proxies appointed pursuant to s. 607.0722 participating in a shareholders' meeting by means of remote communication authorized under subsection (1) shall be deemed present in person and may vote at such a meeting, whether such meeting is to be held at a designated place or solely by means of remote communication, if the corporation has implemented reasonable measures:

(a) To verify that each person participating remotely as a shareholder is a shareholder, is another person entitled to vote on behalf of a shareholder pursuant to s. 607.0721, is an attorney in fact for a shareholder, or is a holder of a proxy appointed pursuant to s. 607.0722; and

(b) To provide such shareholders, such other persons entitled to vote on behalf of shareholders pursuant to s. 607.0721, such attorneys in fact for shareholders, and such holders of proxies appointed pursuant to s. 607.0722, a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to communicate, and to read or hear the proceedings of the meeting, substantially concurrently with such proceedings.

(3) If any shareholder, any other person entitled to vote on behalf of a shareholder pursuant to s. 607.0721, any attorney in fact for a shareholder, or any holder of a proxy appointed pursuant to s. 607.0722, votes or takes action at a shareholder’s meeting by means of remote communication authorized under this section, a record of such vote or other action shall be maintained by the corporation.

(4) If the board of directors is authorized to determine the place of a shareholders’ meeting, the board of directors may, in its sole discretion, determine that the meeting shall be held solely by means of remote communication.

Section 60. Subsections (1), (2), (3), (5), and (7) of section 607.0720, Florida Statutes, are amended to read:

607.0720 Shareholders’ list for meeting.—

(1) After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of a shareholders’ meeting. If the board of directors fixes a different record date under s. 607.0707(8) to determine the shareholders entitled to vote at the meeting, the corporation must also prepare an alphabetical list of the names of all its shareholders who are entitled to vote at the meeting. Each list must be arranged by voting group, and within each voting group by class or series of shares, and show the address of and number of shares held by each shareholder. This subsection does not require the
adjourned until such requirements are complied with on the date and the meeting and continuing through the meeting at the corporation’s principal office, at a place identified in the meeting notice in the city where the meeting will be held, or at the office of the corporation’s transfer agent or registrar. Any separate shareholders’ list for voting, if different, must be similarly available for inspection promptly after the record date for voting. A shareholder or the shareholder’s agent or attorney is entitled on written demand to inspect and, subject to the requirements of s. 607.1602(3), copy a list during regular business hours and at his or her expense, during the period it is available for inspection.

(3) The corporation shall make the shareholders’ list of shareholders entitled to vote available at the meeting, and any shareholder or the shareholder’s agent or attorney is entitled to inspect the list at any time during the meeting or any adjournment.

(5) If the requirements of this section have not been substantially complied with or if the corporation refuses to allow a shareholder or the shareholder’s agent or attorney to inspect the shareholders’ list, or copy a list pursuant to subsection (2), before or at the meeting, the meeting shall be adjourned until such requirements are complied with on the date and the meeting and continuing through the meeting at the corporation’s principal office, at a place identified in the meeting notice in the city where the meeting will be held, or at the office of the corporation’s transfer agent or registrar. Any separate shareholders’ list for voting, if different, must be similarly available for inspection promptly after the record date for voting. A shareholder or the shareholder’s agent or attorney is entitled on written demand to inspect and, subject to the requirements of s. 607.1602(3), copy a list during regular business hours and at his or her expense, during the period it is available for inspection.

(7) A shareholder may not sell or otherwise distribute any information or records inspected under this section, except to the extent that such use is for a proper purpose as defined in s. 607.1602(3). Any person who violates this provision shall be subject to a civil penalty of $5,000.

Section 61. Subsections (1), (2), (3), and (4) of section 607.0721, Florida Statutes, are amended to read:

607.0721 Voting entitlement of shares.—

(1) Except as provided in subsections (2), (3), and (4) or unless the articles of incorporation or this chapter provide otherwise, each outstanding share, regardless of class or series, is entitled to one vote on each matter submitted to a vote at a meeting of shareholders. Only shares are entitled to vote. If the articles of incorporation provide for more or less than one vote for any share on any matter, every reference in this chapter to a majority or other proportion of shares shall refer to such a majority or other proportion of votes entitled to be cast.

(2) Shares of a corporation are not entitled to vote if they are owned by or otherwise belong to the corporation.
directly, or indirectly through an entity of which a majority of
the voting power is held directly or indirectly by the
corporation or which is otherwise controlled by the, directly or
indirectly, by a second corporation, domestic or foreign, and
the first corporation owns, directly or indirectly, a majority
of the shares entitled to vote for directors of the second
corporation.

(3) Shares held by the corporation in a fiduciary capacity
for the benefit of any person are entitled to vote unless they
are held for the benefit of, or otherwise belong to, the
corporation directly, or indirectly through an entity of which a
majority of the voting power is held directly or indirectly by
the corporation or which is otherwise controlled by the
 corporation. For the purposes of this subsection, “voting power”
 means the current power to vote in the election of directors of
a corporation or to elect, select, or appoint those persons who
will govern another entity Subsection (2) does not limit the
power of a corporation to vote any shares, including its own
shares, held by it in a fiduciary capacity.

(4) Redeemable shares are not entitled to vote on any
matter, and shall not be deemed to be outstanding, after
delivery of a written notice of redemption is effective mailed
to the holders thereof and a sum sufficient to redeem such
shares has been deposited with a bank, trust company, or other
financial institution upon an irrevocable obligation to pay the
holders the redemption price upon surrender of the shares.

Section 62. Subsections (3) and (7) of section 607.0722,
Florida Statutes, are amended, and subsection (5) of that
section is republished, to read:

Page 123 of 458
CODING: Words are deletions; words underlined are additions.
the transferee be or the acquired the shares and the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

Section 63. Section 607.0723, Florida Statutes, is amended to read:

607.0723 Shares held by intermediaries and nominees.—

(1) A corporation’s board of directors may establish a procedure under which a person on whose behalf the beneficial owner of shares that are registered in the name of an intermediary or a nominee may elect to be treated as recognized by the corporation as the record shareholder by filing with the corporation a beneficial ownership certificate.

(a) The shareholder is an entity and the name signed by the intermediary or the nominee is the name signed on the vote or proxy appointment that is used to communicate or proxy authority to the record shareholder.

(b) The rights and privileges that the corporation recognizes in a person with respect to whom a beneficial ownership certificate is filed beneficial owner; and

(c) The manner in which the procedure is selected, which shall include that the beneficial ownership certificate be signed or assented to by or on behalf of the record shareholder and the person or persons on whose behalf the shares are held by

(d) The information that must be provided when the procedure is selected;

(e) The period for which selection of the procedure is effective; and

(f) Requirements for notice to the corporation with respect to the arrangement; and

(g) The form and contents of the beneficial ownership certificate.

(3) The procedure may specify any other aspects of the rights and duties created by the filing of a beneficial ownership certificate.

Section 64. Section 607.0724, Florida Statutes, is amended to read:

607.0724 Corporation’s Acceptance of votes and other instruments.—

(1) If the name signed on a vote, ballot, consent, waiver, shareholder demand, or proxy appointment corresponds to the name of a shareholder, the corporation if acting in good faith is entitled to accept the vote, ballot, consent, waiver, shareholder demand, or proxy appointment and give it effect as the act of the shareholder.

(2) If the name signed on a vote, ballot, consent, waiver, shareholder demand, or proxy appointment does not correspond to the name of its shareholder, the corporation if acting in good faith is nevertheless entitled to accept the vote, ballot, consent, waiver, shareholder demand, or proxy appointment and give it effect as the act of the shareholder if:

(a) The shareholder is an entity and the name signed

Page 125 of 458

CODING: Words underlined are additions; words stricken are deletions.
purports to be that of an officer or agent of the entity;

(b) The name signed purports to be that of an administrator, executor, guardian, personal representative, or conservator representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, ballot, consent, waiver, shareholder demand, or proxy appointment;

(c) The name signed purports to be that of a receiver, trustee in bankruptcy, or assignee for the benefit of creditors of the shareholder and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, ballot, consent, waiver, shareholder demand, or proxy appointment;

(d) The name signed purports to be that of a pledgee, beneficial owner, or attorney in fact of the shareholder and, if the corporation requests, evidence acceptable to the corporation of the signatory’s authority to sign for the shareholder has been presented with respect to the vote, ballot, consent, waiver, shareholder demand, or proxy appointment; or

(e) Two or more persons are the shareholder as cotenants or fiduciaries and the name signed purports to be the name of at least one of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

(3) The corporation is entitled to reject a vote, ballot, consent, waiver, shareholder demand, or proxy appointment if the person authorized to accept or reject such instrument, instrument, or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory’s authority to sign for the shareholder.

(4) Neither the corporation or any person authorized by it, nor any inspector of election under s. 607.0729, that the corporation and its officer or agent who accepts or rejects a vote, ballot, consent, waiver, shareholder demand, or proxy appointment in good faith and in accordance with the standards of this section is liable in damages to the shareholder for the consequences of the acceptance or rejection.

(5) Corporate action based on the acceptance or rejection of a vote, ballot, consent, waiver, shareholder demand, or proxy appointment under this section is valid unless a court of competent jurisdiction determines otherwise.

(6) If an inspector of election has been appointed under s. 607.0729, the inspector of election may request information and make determinations under subsections (1), (2), and (3). Any determination made by the inspector of election under these subsections is controlling.

Section 65. Subsections (1), (2), (3), and (5) of section 607.0725, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

607.0725 Quorum and voting requirements for voting groups.—

(1) Shares entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those shares exists with respect to that matter. Unless the articles of incorporation or this chapter provides otherwise, a majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter.

(2) Once a share is represented for any purpose at a
meeting, it is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be fixed for that adjourned meeting.

(3) If a quorum exists, action on a matter (other than the election of directors) by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the articles of incorporation or this chapter provide that a greater number of affirmative votes is required.

(4) The articles of incorporation may provide for any larger quorum requirement for shareholders, or voting groups of shareholders, than is provided by this chapter, but in no event shall a quorum consist of less than one-third of the shares entitled to vote.

(5) Whenever a provision of this chapter provides for voting of classes or series as separate voting groups, the rules provided in s. 607.1004 for amendments of articles of incorporation apply to that provision.

Section 66. Section 607.0726, Florida Statutes, is amended to read:

607.0726 Action by single and multiple voting groups.—

(1) If the articles of incorporation or this chapter provides for voting by a single voting group on a matter, action on that matter is taken when voted upon by that voting group as provided in s. 607.0725.

(2) If the articles of incorporation or this chapter provides for voting by two or more voting groups on a matter, action on that matter is taken only when voted upon by each of those voting groups counted separately as provided in s. 607.0725. Action may be taken by different voting groups on a matter at different times even though no action is taken by another voting group entitled to vote on the matter.

Section 67. Subsection (1) of section 607.0728, Florida Statutes, is amended to read:

607.0728 Voting for directors; cumulative voting.—

(1) Unless otherwise provided in the articles of incorporation, or in a bylaw that fixes a greater voting requirement for the election of directors and that is adopted by the board of directors or shareholders of a corporation having shares registered pursuant to s. 12 of the Securities Exchange Act of 1934 listed on a national securities exchange at the time of adoption, directors are elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present. A bylaw provision or amendment adopted by shareholders which specifies the votes necessary for the election of directors may not be further amended or repealed by the board of directors.

Section 68. Section 607.0729, Florida Statutes, is created to read:

607.0729 Voting procedures; inspectors of election.—

(1) A corporation that has a class of shares registered pursuant to s. 12 of the Securities Exchange Act of 1934 shall, and any other corporation may, appoint one or more inspectors to act at a meeting of shareholders in connection with determining voting results. Each inspector will faithfully execute the duties of inspector with strict impartiality and according to
they believe is relevant and reliable for the purpose of evalu-
ing the inspectors’ belief that such information is relevant and reliable.

(5) Determinations of law by the inspectors of election are subject to de novo review by a court in a judicial proceeding challenging the inspector’s activities under this section.

(6) The chair of the meeting shall announce at the meeting when the polls close for each matter voted upon. If no announcement is made, the polls shall be deemed to have closed upon the final adjournment of the meeting. After the polls close, no ballots, proxies, or votes, or any revocations or changes thereto, may be accepted.

Section 69. Subsection (1) of section 607.0730, Florida Statutes, is amended to read:

607.0730 Voting trusts.—

(1) One or more shareholders may create a voting trust,
Section 70. Section 607.0731, Florida Statutes, is amended to read:

607.0731 Voting shareholder agreements.—
(1) Two or more shareholders may provide for the manner in which they will vote their shares by signing an agreement for that purpose. A voting shareholder agreement created under this section is not subject to the provisions of s. 607.0730.

(2) A voting shareholder agreement created under this section is specifically enforceable.

(3) A transferee of shares in a corporation the shareholders of which have entered into an agreement authorized by subsection (1) shall be bound by such agreement if the transferee takes shares subject to such agreement with notice thereof. A transferee shall be deemed to have notice of any such agreement or any renewal thereof if the existence of such agreement is noted on the face or back of the certificate or certificates representing such shares or on the information statement for uncertificated shares required by s. 607.0626(2).

Section 71. Subsections (1) through (5) of section 607.0732, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

607.0732 Shareholder agreements.—
(1) An agreement among the shareholders of a corporation with 100 or fewer shareholders at the time of the agreement, that complies with this section, is effective among the shareholders and the corporation, even though it is inconsistent with one or more other provisions of this chapter, if it:
(a) Eliminates the board of directors or limits or restricts the discretion or powers of the board of directors;
(b) Governs the authorization or making of distributions regardless of whether they are or are not in proportion to ownership of shares, subject to the limitations in s. 607.06401;
(c) Establishes who shall be directors or officers of the corporation, or their terms of office or manner of selection or removal;
(d) Governs, in general or in regard to specific matters, the exercise or division of voting power by the shareholders and directors or among any of them, including use of weighted voting rights or director proxies;
(e) Establishes the terms and conditions of any agreement for the transfer or use of property or the provision of services between the corporation and any shareholder, director, officer, or an employee or former employee, including use of such property or services.
(f) Transfers to any shareholder or other person any authority to exercise the corporate powers or to manage the business and affairs of the corporation, including the resolution of any issue about which there exists a deadlock among directors or shareholders;

(g) Requires dissolution of the corporation at the request of one or more of the shareholders or upon the occurrence of a specified event or contingency;

(h) Imposes a liability on a shareholder for the attorney fees or expenses of the corporation or any other party in connection with an internal corporate claim, as defined in s. 607.0208;

(i) Establishes, including in lieu of a judicial dissolution, a mechanism for breaking a deadlock among the directors or shareholders of the corporation or for addressing the occurrence or existence of a shareholder asserted oppressive action; or

(j) Otherwise governs the exercise of the corporate powers or the management of the business and affairs of the corporation or the relationship between the shareholders, the directors, and the corporation, or among any of them, and is not contrary to public policy. For purposes of this paragraph, agreements contrary to public policy include, but are not limited to, agreements that reduce the duties of care and loyalty to the corporation as required by s. 607.0810 and 607.0811, exculpate directors from liability that may be imposed under s. 607.0831, adversely affect shareholders’ rights to bring derivative actions under s. 607.07401, or abrogate dissenters’ rights under ss. 607.1301-607.1320.

(2) An agreement authorized by this section shall be:

(a) Set forth or referenced in the articles of incorporation or bylaws and approved by all persons who are shareholders at the time the agreement; or

(b) Subject to termination or amendment only by all persons who are shareholders at the time of the termination or amendment, unless the agreement provides otherwise with respect to termination and with respect to amendments that do not change the designation, rights, preferences, or limitations of any of the shares of a class or series.

(3) The existence of an agreement authorized by this section shall be noted conspicuously on the front or back of each certificate for outstanding shares or on the information statement required with respect to uncertified shares by s. 607.0626(2). If at the time of the agreement the corporation has shares outstanding which are represented by certificates, the corporation shall recall such certificates and issue substitute certificates that comply with this subsection. The failure to note the existence of the agreement on the certificate or information statement shall not affect the validity of the agreement or any action taken pursuant to it. Any purchaser of shares who, at the time of purchase, did not have knowledge of the existence of the agreement shall be entitled to rescission of the purchase. A purchaser shall be deemed to have knowledge of the existence of the agreement if its existence is noted on the certificate.
the certificate or information statement for the shares in compliance with this subsection and, if the shares are not represented by a certificate, the information statement is delivered to the purchaser at or before the time of the purchase of the shares. An action to enforce the right of rescission authorized by this subsection must be commenced within the earlier of 90 days after discovery of the existence of the agreement or 2 years after the time of purchase of the shares.

(4) An agreement authorized by this section shall cease to be effective when shares of the corporation are registered pursuant to s. 12 of the Securities Exchange Act of 1934 listed on a national securities exchange or regularly quoted in a market maintained by one or more members of a national or affiliated securities association. If the agreement ceases to be effective for any reason, the board of directors may, if the agreement is contained or referred to in the corporation’s articles of incorporation or bylaws, adopt an amendment to the articles of incorporation or bylaws, without shareholder action, to delete the agreement and any references to it.

(5) An agreement authorized by this section that limits or restricts the discretion or powers of the board of directors shall relieve the directors of, and impose upon the person or persons in whom such discretion or powers are vested, liability for acts or omissions imposed by law on directors to the extent that the discretion or powers of the directors are limited by the agreement.

(8) This section does not limit or invalidate agreements that are otherwise valid or authorized without regard to this section, including shareholder agreements between or among some or all of the shareholders or agreements between or among the corporation and one or more shareholders.

Section 72. Section 607.0741, Florida Statutes, is repealed.

Section 73. Section 607.0741, Florida Statutes, is created to read:

607.0741 Standing.—

(1) A shareholder may not commence a derivative proceeding unless the shareholder is a shareholder at the time the action is commenced and:

(a) Was a shareholder when the conduct giving rise to the action occurred; or

(b) Whose status as a shareholder devolved on the person through transfer or by operation of law from one who was a shareholder when the conduct giving rise to the action occurred.

(2) In ss. 607.0741-607.0747, the term “shareholder” means a record shareholder, a beneficial shareholder, or an unrestricted voting trust beneficial owner.

Section 74. Section 607.0742, Florida Statutes, is created to read:

607.0742 Complaint; demand and excuse.—A complaint in a proceeding brought in the right of a corporation must be verified and allege with particularity:

(1) The demand, if any, made to obtain the action desired by the shareholder from the board of directors; and

(2) Either:

(a) If such a demand was made, that the demand was refused, rejected, or ignored by the board of directors prior to the
(b) If such a demand was made, why irreparable injury to the corporation or misapplication or waste of corporate assets causing material injury to the corporation would result by waiting for the expiration of a 90-day period from the date the demand was made; or

(c) The reason or reasons the shareholder did not make the effort to obtain the desired action from the board of directors or comparable authority.

Section 75. Section 607.0743, Florida Statutes, is created to read:

607.0743 Stay of proceedings.—If the corporation commences an inquiry into the allegations made in the demand or complaint, the court may stay any derivative proceeding for such period as the court deems appropriate.

Section 76. Section 607.0744, Florida Statutes, is created to read:

607.0744 Dismissal.—

(1) A derivative proceeding may be dismissed, in whole or in part, by the court on motion by the corporation if a group specified in subsection (2) or subsection (3) has determined in good faith, after conducting a reasonable inquiry upon which its conclusions are based, that the maintenance of the derivative proceeding is not in the best interests of the corporation. In all such cases, the corporation has the burden of proof regarding the qualifications, good faith, and reasonable inquiry of the group making the determination.

(2) Unless a panel is appointed pursuant to subsection (3), the determination required in subsection (1) shall be made by:

(a) A majority of qualified directors present at a meeting of the board of directors if the qualified directors constitute a quorum; or

(b) A majority vote of a committee consisting of two or more qualified directors appointed by majority vote of qualified directors present at a meeting of the board of directors, regardless of whether such qualified directors constitute a quorum.

(3) Upon motion by the corporation, the court may appoint a panel consisting of one or more disinterested and independent individuals to make a determination required in subsection (1).

(4) This section does not prevent the court from:

(a) Enforcing a person’s rights under the corporation’s articles of incorporation, bylaws or this chapter, including the person’s rights to information under s. 607.1602; or

(b) Exercising its equitable or other powers, including granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.

Section 77. Section 607.0745, Florida Statutes, is created to read:

607.0745 Discontinuance or settlement; notice.—

(1) A derivative action on behalf of a corporation may not be discontinued or settled without the court’s approval.

(2) If the court determines that a proposed discontinuance or settlement will substantially affect the interest of the corporation’s shareholders or a class, series, or voting group of shareholders, the court shall direct that notice be given to the shareholders affected. The court may determine which party or parties to the derivative action shall bear the expense of
(1) Order the corporation to pay from the amount recovered in the derivative proceeding the court may:

   (a) A custodian may exercise all of the powers of the corporation except for ss. 607.0743, 607.0741-607.0747 shall be governed by the laws of the jurisdiction of incorporation of the foreign corporation except for ss. 607.0743, 607.0745, and 607.0746.

   (b) The directors or those in control of the corporation are acting fraudulently and irreparable injury to the corporation is threatened or being suffered.

   (2) The court:

      (a) May issue injunctions, appoint one or more temporary custodians or temporary receivers with all the powers and duties the court directs, take other action to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing is held;

      (b) Shall hold a full hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a custodian or receiver; and

      (c) Has jurisdiction over the corporation and all of its property, wherever located.

(3) The court may appoint a natural person, a domestic eligible entity, or a foreign eligible entity authorized to transact business in this state as a custodian or receiver and may require the custodian or receiver to post bond, with or without sureties, in an amount the court directs.

(4) The court shall describe the powers and duties of the custodian or receiver in its appointing order, which may be amended. Among other powers:

   (a) A custodian may exercise all of the powers of the corporation except for ss. 607.0743, 607.0741-607.0747 shall be governed by the laws of the jurisdiction of incorporation of the foreign corporation except for ss. 607.0743, 607.0745, and 607.0746.

   (b) The directors or those in control of the corporation are acting fraudulently and irreparable injury to the corporation is threatened or being suffered.

(2) Order the plaintiff to pay any of the defendant’s reasonable expenses, including reasonable attorney fees and costs, incurred in defending the proceeding if it finds that the proceeding was commenced or maintained without reasonable cause or for an improper purpose.

Section 79. Section 607.0747, Florida Statutes, is created to read:

   607.0747 Applicability to foreign corporations.—In any derivative proceeding in the right of a foreign corporation brought in the courts of this state, the matters covered by ss. 607.0741-607.0747 shall be governed by the laws of the jurisdiction of incorporation of the foreign corporation except for ss. 607.0743, 607.0745, and 607.0746.

Section 80. Section 607.0748, Florida Statutes, is created to read:

   607.0748 Shareholder action to appoint custodians or receivers.—

   (1) A circuit court may appoint one or more persons to be custodians or receivers of and for a corporation in a proceeding by a shareholder where it is established that:

      (a) The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered; or

      (b) The directors or those in control of the corporation are acting fraudulently and irreparable injury to the corporation is threatened or being suffered.

   (2) The court:

      (a) May issue injunctions, appoint one or more temporary custodians or temporary receivers with all the powers and duties the court directs, take other action to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing is held;

      (b) Shall hold a full hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a custodian or receiver; and

      (c) Has jurisdiction over the corporation and all of its property, wherever located.

(3) The court may appoint a natural person, a domestic eligible entity, or a foreign eligible entity authorized to transact business in this state as a custodian or receiver and may require the custodian or receiver to post bond, with or without sureties, in an amount the court directs.

(4) The court shall describe the powers and duties of the custodian or receiver in its appointing order, which may be amended. Among other powers:

   (a) A custodian may exercise all of the powers of the corporation except for ss. 607.0743, 607.0741-607.0747 shall be governed by the laws of the jurisdiction of incorporation of the foreign corporation except for ss. 607.0743, 607.0745, and 607.0746.
corporation, through or in place of its board of directors, to
the extent necessary to manage the business and affairs of the
corporation; and
(b) A receiver may dispose of all or any part of the assets
of the corporation, wherever located, at a public or private
sale, if authorized by the court, and may sue and defend in the
receiver’s own name as receiver in all courts of this state.
(5) During a custodianship, the court may redesignate the
custodian a receiver and, during a receivership, the court may
redesignate the receiver a custodian, in each case if doing so
is in the best interests of the corporation.
(6) The court from time to time during the custodianship or
receivership may order compensation paid and expense
disbursements or reimbursements made to any custodian or
receiver from the assets of the corporation or proceeds from the
sale of its assets.
Section 81. Section 607.0749, Florida Statutes, is amended
to read:
607.0749 Provisional director.—
(1) In a proceeding by a shareholder, a provisional
director may be appointed in the discretion of the court if it
appears that such action by the court will remedy a situation in
which the directors are deadlocked in the management of the
corporate affairs and the shareholders are unable to break the
deadlock. A provisional director may be appointed
notwithstanding the absence of a vacancy on the board of
directors, and such director shall have all the rights and
powers of a duly elected director, including the right to notice
of and to vote at meetings of directors, until such time as the

CODING: Words ________ are deletions; words ________ are additions.
A qualification prescribed after a director has been elected or appointed does not apply to that director before the end of that director's term.

In the event that the eligibility to serve as a member of the board of directors of a condominium association, cooperative association, homeowners' association, or mobile home owners' association is restricted to membership in such association and membership is appurtenant to ownership of a unit, parcel, or mobile home, a grantor of a trust described in s. 733.707(3), or a qualified beneficiary as defined in s. 736.0103 of a trust which owns a unit, parcel, or mobile home shall be deemed a member of the association and eligible to serve as a director of the condominium association, cooperative association, homeowners' association, or mobile home owners' association, provided that said beneficiary occupies the unit, parcel, or mobile home.

Section 84. Subsection (3) of section 607.0803, Florida Statutes, is amended to read:

607.0803 Number of directors.—

(3) Directors are elected at the first annual shareholders’ meeting and at each annual shareholders’ meeting thereafter, unless elected by written consent in lieu of an annual shareholders’ meeting pursuant to s. 607.0704 or unless their terms are staggered under s. 607.0806.

Section 85. Section 607.0804, Florida Statutes, is amended to read:

607.0804 Election of directors by certain voting groups; special voting rights of certain directors.—The articles of incorporation may confer upon holders of any voting group the right to elect one or more directors who shall serve for such
(a) Provided in s. 607.0806;
(b) Provided in s. 607.1023 if a bylaw electing to be
governed by that section is in effect; or
(c) That a shorter term is specified in the articles of
incorporation in the event of a director nominee failing to
receive a specified vote for election unless their terms are

term and have such voting powers as are stated in the articles
of incorporation. The terms of office and voting powers of the
directors elected in the manner provided in the articles of
incorporation may be greater than or less than those of any
other director or class of directors. If the articles of
incorporation provide that directors elected by the holders of a
voting group shall have more or less than one vote per director
on any matter, every reference in this chapter to a majority or
other proportion of directors shall refer to a majority or
other proportion of the votes of such directors. If a
shareholders’ agreement meeting the requirements of s. 607.0732,
or articles of incorporation or bylaws meeting the requirements
of s. 607.0732, provide that directors shall have more or less
than one vote per director on any matter, every reference in
this chapter to a majority or other proportion of directors
shall refer to a majority or other proportion of the votes of
such directors.

Section 86. Subsections (2) and (5) of section 607.0805, Florida Statutes, are amended to read:

607.0805 Terms of directors generally.—
(2) The terms of all other directors expire at the next
annual shareholders’ meeting following their election, except to
the extent:
(a) Provided in s. 607.0806;
(b) Provided in s. 607.1023 if a bylaw electing to be
governed by that section is in effect; or
(c) That a shorter term is specified in the articles of
incorporation in the event of a director nominee failing to
receive a specified vote for election unless their terms are

(5) Except to the extent otherwise provided in the articles
of incorporation or under s. 607.1023, if a bylaw electing to be
governed by that section is in effect, despite the expiration of
a director’s term, the director continues to serve until his or
her successor is elected and qualifies or until there is a
decrease in the number of directors.

Section 87. Section 607.0806, Florida Statutes, is amended
to read:

607.0806 Staggered terms for directors.—
(1) The directors of any corporation organized under this
act may by the articles of incorporation, the initial bylaws or
by an initial bylaw, or by a bylaw adopted by a vote of the
shareholders, may provide for staggering the terms of directors
by dividing the total number of directors into two or three
groups, with each group containing half or one-third of the
total, as near as may be practicable. In that event, the terms
of the first group expire at the first annual shareholders’
meeting after their election, the terms of the second group
expire at the second annual shareholders’ meeting after their
election, and the terms of the third group, if any, expire at
the third annual shareholders’ meeting after their election. At
each annual shareholders’ meeting held thereafter, directors
shall be elected for a term of two years or three years be
divided into one, two, or three classes with the number of
directors in each class being as nearly equal as possible; the
term of office of those of the first class to expire at the
annual meeting next ensuing; of the second class 1 year
thereafter; of the third class 2 years thereafter; and at each

(3) A resignation that specifies a later effective date or events or upon failing to receive a specified vote for election as a director may provide that the resignation is irrevocable. Section 90. Section 607.0808, Florida Statutes, are amended to read:

607.08081 Removal of directors by judicial proceedings.—

(3) A director may be removed if the number of votes cast to remove the director exceeds the number of votes cast not to remove the director, except to the extent the articles of incorporation or bylaws require a greater number; provided that if cumulative voting is authorized, a director may not be removed if, in the case of a meeting, the number of votes sufficient to elect the director under cumulative voting is voted against his or her removal and, if action is taken by less than unanimous written consent, voting shareholders entitled to the number of votes sufficient to elect the director under cumulative voting do not consent to the removal. If cumulative voting is not authorized, a director may be removed only if the number of votes cast to remove the director exceeds the number of votes cast not to remove him or her.

(4) A director may be removed by the shareholders only at a meeting of shareholders called for the purpose of removing the director and the meeting notice must state that the purpose of the meeting is removal of the director or one of the purposes, of the meeting is removal of the director is the purpose of the meeting.

Section 90. Section 607.08081, Florida Statutes, is created to read:

607.08081 Removal of directors by judicial proceedings.—
(1) The circuit court in the applicable county may remove a director from office, and may order other relief, including barring the director from reelection for a period prescribed by the court, in a proceeding commenced by or in the right of the corporation if the court finds that:
(a) The director engaged in fraudulent conduct with respect to the corporation or its shareholders, grossly abused the position of director, or intentionally inflicted harm on the corporation; and
(b) Considering the director’s course of conduct and the inadequacy of other available remedies, removal or such other relief would be in the best interest of the corporation.
(2) A shareholder proceeding on behalf of the corporation under paragraph (1)(a) shall comply with all of the requirements of ss. 607.0741-607.0747, except s. 607.0741(1).
Section 91. Section 607.0809, Florida Statutes, is amended to read:
607.0809 Vacancy on board.—
(1) Unless the articles of incorporation provide otherwise, if a vacancy occurs on a board of directors, including a vacancy resulting from an increase in the number of directors, it may be filled by the affirmative vote of a majority of the remaining directors, though less than a quorum of the board of directors, or by the shareholders, unless the articles of incorporation provide otherwise:
(a) The shareholders may fill the vacancy;
(b) The board of directors may fill the vacancy; or
(c) If the directors remaining in office are less than a quorum, the vacancy may be filled by the affirmative vote of a majority of all the directors then remaining in office.
(2) If the vacant office was held by a director elected by a voting group of shareholders, only the holders of shares of that voting group are entitled to vote to fill the vacancy if it is filled by the shareholders, and only the remaining directors elected by that voting group, even if less than a quorum, are entitled to fill the vacancy if it is filled by the directors whenever the holders of shares of any voting group are entitled to elect a class of one or more directors by the provisions of the articles of incorporation, vacancies in such class may be filled by holders of shares of that voting group or by a majority of the directors then in office elected by such voting group or by a sole remaining director so elected. If no director elected by such voting group remains in office, unless the articles of incorporation provide otherwise, directors not elected by such voting group may fill vacancies as provided in subsection (1).
(3) A vacancy that may occur at a specified later date under s. 607.0807(2) by reason of a resignation effective at a later date under s. 607.0807(2) or otherwise upon the subsequent happening of an event may be filled before the vacancy occurs, but the new director may not take office until the vacancy occurs.
Section 92. Subsection (4) of section 607.0820, Florida Statutes, is amended to read:
607.0820 Meetings.—
(4) Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any or all directors to participate in any meeting of the board of
Florida Senate - 2019

CS for CS for SB 892

590-03467A-19

2019892c2

590-03467A-19

2019892c2

Page 154 of 458

CODING: Words \textit{stricken} are deletions; words \textit{underlined} are additions.
Section 96. Section 607.0825, Florida Statutes, is amended to read:

607.0825 Committees.—

(1) Unless this chapter, the articles of incorporation, or the bylaws provide otherwise, the board of directors may establish, provide, the board of directors, by resolution adopted by a majority of the full board of directors, may designate from among its members an executive committee and one or more other board committees to perform functions of the board of directors. Such committees shall be composed exclusively of one or more directors committee each of which, to the extent provided in such resolution or in the bylaws of incorporation or the bylaws of the corporation, shall have and may exercise all the authority of the board of directors, except that no such committee shall have the authority to:

(a) Approve or recommend to shareholders actions or proposals required by this act to be approved by shareholders.

(b) Fill vacancies on the board of directors or any committee thereof.

(c) Admit, amend, or repeal the bylaws.

(d) Authorize or approve the reacquisition of shares unless pursuant to a general formula or method specified by the board.

(2) Unless this chapter, the articles of incorporation, or the bylaws provide otherwise, the establishment of a board committee, the appointment of members to such committee, the dissolution of a previously created board committee, and the removal of members from a previously created board committee must be approved by a majority of all the directors in office when the action is taken. Unless the articles of incorporation or bylaws provide otherwise, ss. 607.0820, 607.0822, 607.0823, and 607.0824 which govern meetings, notice and waiver of notice, and quorum and voting requirements of the board of directors apply to committees and their members as well.

(3) Sections 607.0820-607.0824, which govern meetings, notice and waiver of notice, and quorum and voting requirements of the board of directors, apply to board committees and their members as well.

(4) A board committee may exercise the powers of the board of directors under s. 607.0801, except that a board committee may not:

(a) Authorize or approve the reacquisition of shares unless pursuant to a formula or method, or within limits, prescribed by the board of directors.

(b) Approve, recommend to shareholders, or propose to
590-03467A-19 2019892c2

(c) Fill vacancies on the board of directors or on any 
board committee.

(d) Adopt, amend, or repeal bylaws.

(5) The establishment of, delegation of authority to, or 
action by a committee does not alone constitute compliance by a 
director with the standards of conduct described in s. 607.0830.

(6) The board of directors may appoint Each committee must 
have two or more members who serve at the pleasure of the board 
of directors. The board, by resolution adopted in accordance 
with subsection (1), may designate one or more directors as 
alternate members of any board such committee to fill a vacancy 
on the committee or to replace who may act in the place and 
stead of any absent or disqualified member of such committee 
during the member’s absence or disqualification. If the articles 
of incorporation, the bylaws, or the resolution creating the 
board committee so provide, the member or members present at any 
board committee meeting and not disqualified from voting, by 
uminuous action, may appoint another director to act in place 
of an absent or disqualified member during that member’s absence 
or disqualification or members at any meeting of such committee.

(4) Neither the designation of any such committee, the 
delegation thereto of authority, nor action by such committee 
pursuant to such authority shall alone constitute compliance by 
any member of the board of directors not a member of the 
committee in question with his or her responsibility to act in 
good faith, in a manner he or she reasonably believes to be in 
the best interests of the corporation, and with such care as an 
ordinarily prudent person in a like position would use under 
similar circumstances.

Section 97. Section 607.0826, Florida Statutes, is created 
to read:

607.0826 Submission of matters for a shareholder vote.—A 
corporation may agree to submit a matter to a vote of its 
shareholders even if, after approving the matter, the board of 
directors determines it no longer recommends the matter.

Section 98. Section 607.0830, Florida Statutes, is amended 
to read:

607.0830 General standards for directors.—

(1) Each member of the board of directors, when discharging 
duties of a director, including in discharging his or her 
duties as a member of a board committee, must act a director 
shall discharge his or her duties as a director, including his 
or her duties as a member of a committee:

(a) In good faith; and

(b) With the care an ordinarily prudent person in a like 
position would exercise under similar circumstances; and

(c) In a manner he or she reasonably believes to be in the 
best interests of the corporation.

(2) The members of the board of directors or a board 
committee, when becoming informed in connection with a 
decisionmaking function or devoting attention to an oversight 
function, shall discharge their duties with the care that an 
ordinary prudent person in a like position would reasonably 
believe appropriate under similar circumstances in discharging 
his or her duties, a director is entitled to rely on 
information, opinions, reports, or statements, including

Page 157 of 458

CODING: Words *stricken* are deletions; words *underlined* are additions.
financial statements and other financial data, if prepared or presented by:

(1) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;

(2) Legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the persons’ professional or expert competence;

(a) A committee of the board of directors of which he or she is not a member if the director reasonably believes the committee merits confidence.

(3) In discharging board or board committee duties, a director who does not have knowledge that makes reliance unwarranted is entitled to rely on the performance by any of the persons specified in paragraph (5)(a) or paragraph (5)(b) to whom the board may have delegated, formally or informally by course of conduct, the authority or duty to perform one or more of the board’s functions that are delegable under applicable law.

(4) In discharging board or board committee duties, a director who does not have knowledge that makes reliance unwarranted is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by any of the persons specified in subsection (5).

(5) A director is entitled to rely, in accordance with subsection (3) or subsection (4), on:

(a) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and
Florida Statutes, are amended to read:

607.0831 Liability of directors.—

1. A director is not personally liable for monetary damages to the corporation or any other person for any statement, vote, decision to take or not to take action, or any failure to take any action, as or failure to act, regarding corporate management or policy, by a director, unless:

(a) The director breached or failed to perform his or her duties as a director; and

(b) The director’s breach of, or failure to perform, those duties constitutes any of the following:

1. A violation of the criminal law, unless the director had reasonable cause to believe his or her conduct was lawful or had no reasonable cause to believe his or her conduct was unlawful. A judgment or other final adjudication against a director in any criminal proceeding for a violation of the criminal law estops that director from contesting the fact that his or her breach, or failure to perform, constitutes a violation of the criminal law; but does not estop the director from establishing that he or she had reasonable cause to believe that his or her conduct was lawful or had no reasonable cause to believe that his or her conduct was unlawful;

2. A circumstance under which the transaction at issue is one from which the director derived an improper personal benefit, either directly or indirectly;

3. A circumstance under which the liability provisions of s. 607.0834 are applicable;

4. In a proceeding by or in the right of the corporation to procure a judgment in its favor or by or in the right of a shareholder, conscious disregard for the best interest of the corporation, or willful or intentional misconduct; or

5. In a proceeding by or in the right of someone other than the corporation or a shareholder, recklessness or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

3. A director is deemed not to have derived an improper personal benefit from any transaction if the transaction and the nature of any personal benefit derived by the director are not prohibited by state or federal law or regulation and, without further limitation:

(a) In an action other than a derivative suit regarding a decision by the director to approve, reject, or otherwise affect the outcome of an offer to purchase the shares stock of, or to effect a merger of, the corporation, the transaction and the nature of any personal benefits derived by a director are disclosed or known to all directors voting on the matter, and the transaction was authorized, approved, or ratified by at least two directors who comprise a majority of the disinterested directors (whether or not such disinterested directors constitute a quorum); or

(b) The transaction is fair to the corporation at the time it is authorized, approved, or ratified as determined in accordance with s. 607.0832 and the nature of any personal benefits derived by a director are disclosed or known to the shareholders entitled to vote, and the transaction was authorized, approved, or ratified by the affirmative vote of written consent of such shareholders who hold a majority of the...
1. The director’s spouse.
2. A child, stepchild, parent, stepparent, grandparent, grandchild, or sibling, step sibling, or half sibling of the director or the director’s spouse.

(d) A director is “indirectly” a party to a transaction if that director has a material financial interest in or is a director, officer, member, manager, or partner of a person, other than the corporation, who is a party to the transaction.

(e) A director has an “indirect material financial interest” if a family member has a material financial interest in the transaction, other than having an indirect interest as a shareholder of the corporation, or if the transaction is with an entity, other than the corporation, which has a material financial interest in the transaction and controls, or is controlled by, the director or another person specified in this subsection.

(f) “Material financial interest” or “other material interest” means a financial or other interest in the transaction that would reasonably be expected to impair the objectivity of the director’s judgment when participating in the action on the authorization of the transaction.

(2) If a director’s conflict of interest transaction is fair to the corporation at the time it is authorized, approved, effectuated, or ratified:

(a) Such transaction is not void or voidable; and

(b) The fact that the transaction is a director’s conflict of interest transaction is not grounds for any equitable relief, an award of damages, or other sanctions, because of that relationship or interest, because such director or directors are present at the meeting of the board of directors, or for any other reason.

Section 100. Section 607.0832, Florida Statutes, is amended to read:

607.0832 Director conflicts of interest.—

(1) As used in this section, the following terms and definitions apply:

(a) “Director’s conflict of interest transaction” means a transaction between a corporation and one or more of its directors, or another entity in which one or more of the corporation’s directors is directly or indirectly a party to the transaction, other than being an indirect party as a result of being a shareholder of the corporation, and has a direct or indirect material financial interest or other material interest.

(b) “Fair to the corporation” means that the transaction, as a whole, is beneficial to the corporation and its shareholders, taking into appropriate account whether it is:

1. Fair in terms of the director’s dealings with the corporation in connection with that transaction; and

2. Comparable to what might have been obtainable in an arm’s length transaction.

(c) “Family member” includes any of the following:

1. The director’s spouse.

2. A child, stepchild, parent, stepparent, grandparent, grandchild, or sibling, step sibling, or half sibling of the director or the director’s spouse.
(3)(a) In a proceeding challenging the validity of a director’s conflict of interest transaction or in a proceeding seeking equitable relief, award of damages, or other sanctions with respect to a director’s conflict of interest transaction, the person challenging the validity or seeking equitable relief, award of damages, or other sanctions has the burden of proving the lack of fairness of the transaction if:

1. The material facts of the transaction and the director’s interest in the transaction were disclosed or known to the board of directors or committee that authorizes, approves, or ratifies the transaction and the transaction was authorized, approved, or ratified by a vote of a majority of the qualified directors even if the qualified directors constitute less than a quorum of the board or the committee; however, the transaction cannot be authorized, approved, or ratified under this subsection solely by a single director; or

2. The material facts of the transaction and the director’s interest in the transaction were disclosed or known to the shareholders who voted upon such transaction and the transaction was authorized, approved, or ratified by a majority of the votes cast by disinterested shareholders or by the written consent of disinterested shareholders representing a majority of the votes that could be cast by all disinterested shareholders. Shares owned by or voted under the control of a director who has a relationship or interest in the director’s conflict of interest transaction may not be considered shares owned by a disinterested shareholder and may not be counted in a vote of shareholders to determine whether to authorize, approve, or ratify a director’s conflict of interest transaction under this subparagraph. The vote of those shares, however, is counted in determining whether the transaction is approved under other sections of this chapter. A majority of the shares, whether or not present, that are entitled to be counted in a vote on the transaction under this subparagraph constitutes a quorum for the purpose of taking action under this section.

(b) If neither of the conditions provided in paragraph (a) has been satisfied, the person defending or asserting the validity of a director’s conflict of interest transaction has the burden of proving its fairness in a proceeding challenging the validity of the transaction.

(4) The presence of or a vote cast by a director with an interest in the transaction does not affect the validity of an action taken under paragraph (3)(a) if the transaction is otherwise authorized, approved, or ratified as provided in subsection (3), but the presence or vote of the director may be counted for purposes of determining whether the transaction is approved under other sections of this chapter.

(5) In addition to other grounds for challenge, a party challenging the validity of the transaction is not precluded from asserting and proving that a particular director or shareholder was not disinterested on grounds of financial or other interest for purposes of the vote on, consent to, or approval of the transaction.

(6) If directors’ action under this section does not otherwise satisfy a quorum or voting requirement applicable to
the authorization of the transaction by directors as required by the articles of incorporation, the bylaws, this chapter, or any other law, an action to satisfy those authorization requirements, whether as part of the same action or by way of another action, must be taken by the board of directors or a committee in order to authorize the transaction. In such action, the vote or consent of directors who are not disinterested may be counted.

(7) Where shareholders’ action under this section does not satisfy a quorum or voting requirement applicable to the authorization of the transaction by shareholders as required by the articles of incorporation, the bylaws, this chapter, or any other law, an action to satisfy those authorization requirements, whether as part of the same action or by way of another action, must be taken by the shareholders in order to authorize the transaction. In such action, the vote or consent of shareholders who are not disinterested shareholders may be counted. No contract or other transaction between a corporation and one or more of its directors or any other corporation, firm, association, or entity in which one or more of its directors are directors or officers or are financially interested shall be either void or voidable because of such relationship or interest, because such director or directors are present at the meeting of the board of directors or a committee thereof which authorizes, approves, or ratifies such contract or transaction, or because his or her or their votes are counted for such purpose, etc.

(a) The fact of such relationship or interest is disclosed or known to the board of directors or committee which authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with such relationship or interest in the transaction does not affect the validity of any action taken under paragraph (1)(a) if the transaction is otherwise authorized, approved, or ratified as provided in that subsection, but such presence or vote of those directors may be counted for purposes of determining whether the transaction is approved under other sections of this act.

(b) The fact of such relationship or interest is disclosed or known to the shareholders entitled to vote and they authorize, approve, or ratify such contract or transaction by vote or written consent, or

(c) The contract or transaction is fair and reasonable as to the corporation at the time it is authorized by the board, a committee, or the shareholders.

(2) For purposes of paragraph (1)(a) only, a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board of directors, or on the committee, who have no relationship of interest in the transaction described in subsection (1), but a transaction may not be authorized, approved, or ratified under this section by a single director.

If a majority of the directors who have no such relationship or interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with such relationship or interest in the transaction does not affect the validity of any action taken under paragraph (1)(a) if the transaction is otherwise authorized, approved, or ratified as provided in that subsection, but such presence or vote of those directors may be counted for purposes of determining whether the transaction is approved under other sections of this act.

(2) For purposes of paragraph (1)(b), a conflict of
interest transaction is authorized, approved, or ratified if it receives the vote of a majority of the shares entitled to be counted under this subsection. Shares owned by or voted under the control of a director who has a relationship or interest in the transaction described in subsection (1) may not be counted in a vote of shareholders to determine whether to authorize, approve, or ratify a conflict of interest transaction under paragraph (1)(B). The vote of those shares, however, is counted in determining whether the transaction is approved under other sections of this act. A majority of the shares, whether or not present, that are entitled to be counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this section.

Section 101. Section 607.0833, Florida Statutes, is amended to read:

607.0833 Loans to officers, directors, and employees; guaranty of obligations.—Any corporation may lend money to, guarantee any obligation of, or otherwise assist any officer, director, or employee of the corporation or of a subsidiary, whenever, in the judgment of the board of directors, such loan, guaranty, or assistance may reasonably be expected to benefit the corporation. The loan, guaranty, or other assistance may be with or without interest and may be unsecured or secured in such manner as the board of directors shall approve, including, without limitation, a pledge of shares of stock of the corporation. Nothing in this section shall be deemed to deny, limit, or restrict the powers of guaranty or warranty of any corporation at common law or under any statute. Loans, guarantees, or other types of assistance are subject to s. 607.0832.

CODING: Words deleted are deletions; words underlined are additions.
(2) The board of directors may appoint one or more
individuals to act as the officers of the corporation. A duly
appointed officer may appoint one or more officers or assistant
officers if authorized by the bylaws or the board of directors.

(3) The bylaws or the board of directors shall assign
delegate to one of the officers responsibility for preparing
minutes of the directors’ and shareholders’ meetings and for
authenticating records of the corporation required to be kept
pursuant to s. 607.1601(1) and (5).

Section 104. Section 607.08411, Florida Statutes, is
created to read:

607.08411 General standards for officers.—
(1) An officer, when performing in such capacity, shall
act:
(a) In good faith; and
(b) in a manner the officer reasonably believes to be in
the best interests of the corporation.

(2) An officer, when becoming informed in connection with a
decisionmaking function, shall discharge his or her duties with
the care that an ordinary prudent person in a like position
would reasonably believe appropriate under similar
circumstances.

(3) The duty of an officer includes the obligation to:
(a) Inform the superior officer to whom, or the board of
directors or the committee to which, the officer reports or
information about the affairs of the corporation known to the
officer, within the scope of the officer’s functions, and known
or as should be known to the officer to be material to such
superior officer, board, or committee; and

(b) inform his or her superior officer, or another
appropriate person within the corporation, or the board of
directors, or a committee thereof, of any actual or probable
material violation of law involving the corporation or material
breach of duty to the corporation by an officer, employee, or
agent of the corporation the officer believes has occurred or is
likely to occur.

(4) In discharging his or her duties, an officer who does
not have knowledge that makes reliance unwarranted is entitled
to rely on the performance by any of the persons specified in
subsection (6) to whom the responsibilities were properly
delegated, formally or informally, by course of conduct.

(5) In discharging his or her duties, an officer who does
not have knowledge that makes reliance unwarranted is entitled
to rely on information, opinions, reports, or statements,
including financial statements and other financial data,
prepared or presented by any of the persons specified in
subsection (6).

(6) An officer is entitled to rely, in accordance with
subsection (4) or subsection (5), on:
(a) One or more other officers of the corporation or one or
more employees of the corporation whom the officer reasonably
believes to be reliable and competent in the functions performed
or the information, opinions, reports, or statements provided;
(b) Legal counsel, public accountants, or other persons
retained by the corporation as to matters involving skills or
expertise the officer reasonably believes are matters within the
particular person’s professional or expert competence or as to
which the particular person merits confidence.
Section 105. Section 607.0842, Florida Statutes, is amended to read:

607.0842 Resignation and removal of officers.—

(1) An officer may resign at any time by delivering a written notice to the corporation. A resignation is effective as provided in s. 607.0141(5) when the notice is delivered unless the notice provides for a delayed effectiveness, including effectiveness determined upon a future event or events specified a later effective date. If effectiveness of a resignation is stated to be delayed and the board of directors or appointing officer accepts the delay, the made effective at a later date and the corporation accepts the future effective date, the board of directors or the appointing officer may fill the pending vacancy before the delayed effectiveness effective date if the board of directors or appointing officer provides that the successor does not take office until the vacancy occurs effective date.

(2) An officer may be removed at any time with or without cause by:

(a) The board of directors;

(b) The appointing officer, unless the bylaws or the board of directors provide otherwise; or

(c) Any other officer, if authorized by the bylaws or the board of directors.

(3) For the purposes of this section, the term “appointing officer” means the officer, including any successor to that officer, who appointed the officer resigning or being removed. A board of directors may remove any officer at any time with or without cause. Any officer or assistant officer, if appointed by another officer, may likewise be removed by such officer.

590-03467A-19

Section 106. Section 607.0850, Florida Statutes, is amended to read:

607.0850 Definitions; indemnification of officers, directors, employees, and agents.—In ss. 607.0850-607.0859, the term:

(1) “Agent” includes a volunteer.

(2) “Corporation” includes, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a merger, so that any person who is or was a director or officer of a constituent corporation, or is or was serving at the request of a constituent corporation as a director or officer, member, manager, partner, trustee, employee, or agent of another domestic or foreign corporation, limited liability company, partnership, joint venture, trust, employee benefit plan, or other enterprise or entity, is in the same position under this section with respect to the resulting or surviving corporation as he or she would have been with respect to such constituent corporation if its separate existence had continued.

(3) “Director” or “officer” means an individual who is or was a director or officer, respectively, of a corporation or who, while a director or officer of the corporation, is or was serving at the corporation’s request as a director or officer, manager, partner, trustee, employee, or agent of another domestic or foreign corporation, limited liability company, partnership, joint venture, trust, employee benefit plan, or another enterprise or entity. A director or officer is considered to be serving an employee benefit plan at the
corporation’s request if the individual’s duties to the family corporation or such plan also impose duties on, or otherwise involve services by, the individual to the plan or to participants in or beneficiaries of the plan. The term includes, unless the context otherwise requires, the estate, heirs, executors, administrators, and personal representatives of a director or officer.

(4) “Expenses” includes reasonable attorney fees, including those incurred in connection with any appeal.

(5) “Liability” means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses incurred with respect to a proceeding.

(6) “Party” means an individual who was, is, or is threatened to be made, a defendant or respondent in a proceeding.

(7) “Proceeding” means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitrative, or investigative and whether formal or informal.

(8) “Serving at the corporation’s request” includes any service as a director, officer, employee, or agent of the corporation that imposes duties on such persons, including duties relating to an employee benefit plan and its participants or beneficiaries.

(1) A corporation shall have power to indemnify any person who was or is a party to any proceeding (other than an action by, or in the right of, the corporation), by reason of the fact that he or she is or was a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against liability incurred in connection with such proceeding, including any appeal thereof, if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any proceeding by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the corporation or with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

(2) A corporation shall have power to indemnify any person, who was or is a party to any proceeding by or in the right of the corporation to procure a judgment in its favor by reason of the fact that the person is or was a director, officer, employee, or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against expenses and amounts paid in settlement not exceeding, in the judgment of the board of directors, the estimated expense of litigating the proceeding to conclusion, actually and reasonably incurred in connection with the defense or settlement of such proceeding, including any

CODING: Words **stricken** are deletions; words **underlined** are additions.
appeal thereof. Such indemnification shall be authorized if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the corporation, except that no indemnification shall be made under this subsection in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable unless, and only to the extent that, the court in which such proceeding was brought, or any other court of competent jurisdiction, shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(2) To the extent that a director, officer, employee, or agent of a corporation has been successful on the merits or otherwise in defense of any proceeding referred to in subsection (1) or subsection (2), or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses, actually and reasonably incurred by him or her in connection therewith.

(3) Any indemnification under subsection (1) or subsection (2), unless pursuant to a determination by a court, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in subsection (1) or subsection (2). Such determination shall be made:

(a) By the board of directors by a majority vote of a quorum consisting of directors who were not parties to such proceeding;

(b) If a quorum of the directors cannot be obtained or, even if obtainable, by majority vote of a committee duly designated by the board of directors (in which directors who are parties may participate) consisting solely of two or more directors not at the time parties to the proceeding;

(c) By independent legal counsel:

1. Selected by the board of directors prescribed in paragraph (a) or the committee prescribed in paragraph (b); or

2. If a quorum of the directors cannot be obtained for paragraph (a) and the committee cannot be designated under paragraph (b), selected by majority vote of the full board of directors (in which directors who are parties may participate);

(d) By the shareholders by a majority vote of a quorum consisting of shareholders who were not parties to such proceeding or, if no such quorum is obtainable, by a majority vote of shareholders who were not parties to such proceeding;

(e) Evaluation of the reasonableness of expenses and authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible.

However, if the determination of permissibility is made by independent legal counsel, persons specified by paragraph (4) shall evaluate the reasonableness of expenses and may authorize indemnification.

(f) Expenses incurred by an officer or director in defending a civil or criminal proceeding may be paid by the corporation in advance of the final disposition of such proceeding upon receipt of an undertaking by or on behalf of
in a proceeding by or in the right of a shareholder.

(4) Indemnification and advancement of expenses as provided in this section shall continue, unless otherwise provided when authorized or ratified, to a person who has ceased to be a director, officer, employee, or agent and shall accrue to the benefit of the heirs, executors, and administrators of such a person, unless otherwise provided when authorized or ratified.

(5) Unless the corporation’s articles of incorporation provide otherwise, notwithstanding the failure of a corporation to provide indemnification, and despite any contrary determination of the board or of the shareholders in the specific case, a director, officer, employee, or agent of the corporation who is or was a party to a proceeding may apply for indemnification or advancement of expenses, or both, to the court conducting the proceeding to the circuit court, or to another court of competent jurisdiction. On receipt of an application, the court, after giving any notice that it considers necessary, may order indemnification and advancement of expenses, including expenses incurred in seeking court-ordered indemnification or advancement of expenses, if it determines that:

(a) The director, officer, employee, or agent is entitled to mandatory indemnification under subsection (3), in which case the court shall also order the corporation to pay the director reasonable expenses incurred in obtaining court-ordered indemnification or advancement of expenses;

(b) The director, officer, employee, or agent is entitled to indemnification or advancement of expenses, or both, by virtue of the exercise by the corporation of its power pursuant...
(d) The term "proceeding" includes any threatened, pending, or completed action, suit, or other type of proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.

(1) Except as otherwise provided in this section and in s. 107.0851, Florida Statutes, is created to read:

607.0851 Permissible indemnification.—
(1) Except as otherwise provided in this section and in s. 107.0851, Florida Statutes, is created to read:

(1) Except as otherwise provided in this section and in s. 107.0851, Florida Statutes, is created to read:
607.0859, and not in limitation of indemnification allowed under
s. 607.0858(1), a corporation may indemnify an individual who is
a party to a proceeding because the individual is or was a
director or officer against liability incurred in the proceeding
if:
   (a) The director or officer acted in good faith;
   (b) The director or officer acted in a manner he or she
      reasonably believed to be in, or not opposed to, the best
      interests of the corporation; and
   (c) In the case of any criminal proceeding, the director or
      officer had no reasonable cause to believe his or her conduct
      was unlawful.

(2) The conduct of a director or officer with respect to an
employee benefit plan for a purpose the director or officer
reasonably believed to be in the best interests of the
participants in, and the beneficiaries of, the plan is conduct
that satisfies the requirement of paragraph (1)(b).

(3) The termination of a proceeding by judgment, order,
settlement, or conviction, or upon a plea of nolo contendere or
its equivalent, does not, of itself, create a presumption that
the director or officer did not meet the relevant standard of
conduct described in this section.

(4) Unless ordered by a court under s. 607.0854(1)(c), a
 corporation may not indemnify a director or an officer in
 connection with a proceeding by or in the right of the
 corporation except for expenses and amounts paid in settlement
 not exceeding, in the judgment of the board of directors, the
 estimated expense of litigating the proceeding to conclusion,
 actually and reasonably incurred in connection with the defense
of litigating the proceeding to conclusion, actually and reasonably incurred in connection with the defense

Section 108. Section 607.0852, Florida Statutes, is created
to read:
607.0852 Mandatory indemnification.—A corporation must
indemnify an individual who is or was a director or officer who
was wholly successful, on the merits or otherwise, in the
defense of any proceeding to which the individual was a party
because he or she is or was a director or officer of the
corporation against expenses incurred by the individual in
connection with the proceeding.

Section 109. Section 607.0853, Florida Statutes, is created
to read:
607.0853 Advance for expenses.—
   (1) A corporation may, before final disposition of a
proceeding, advance funds to pay for or reimburse expenses
 incurred in connection with the proceeding by an individual who
 is a party to the proceeding because that individual is or was a
director or an officer if the director or officer delivers to
 the corporation a signed written undertaking of the director or
 officer to repay any funds advanced if:
   (a) The director or officer is not entitled to mandatory
indemnification under s. 607.0852; and
   (b) It is ultimately determined under s. 607.0854 or s.
607.0855 that the director or officer has not met the relevant
standard of conduct described in s. 607.0851 or the director or
officer is not entitled to indemnification under s. 607.0859.
(2) The undertaking required by paragraph (1)(b) must be an unlimited general obligation of the director or officer but need not be secured and may be accepted without reference to the financial ability of the director or officer to make repayment.

(3) Authorizations under this section must be made:

1. If there are two or more qualified directors, by a majority vote of all of the qualified directors (a majority of whom shall for such purpose constitute a quorum) or by a majority of the members of a committee appointed by such vote and comprised of two or more qualified directors; or

2. If there are fewer than two qualified directors, by the vote necessary for action by the board of directors under s. 607.0824(3), in which authorization vote directors who are not qualified directors may participate; or

(b) By the shareholders, but shares owned by or voted under the control of a director or officer who at the time of the authorization is not a qualified director or is an officer who is a party to the proceeding may not be counted as a vote in favor of the authorization.

Section 110. Section 607.0854, Florida Statutes, is created to read:

607.0854 Court-ordered indemnification and advance for expenses.—

(1) Unless the corporation’s articles of incorporation provide otherwise, notwithstanding the failure of a corporation to provide indemnification, and despite any contrary determination of the board of directors or of the shareholders in the specific case, a director or officer of the corporation who is a party to a proceeding because he or she is or was a director or officer may apply for indemnification or an advance for expenses, or both, to a court having jurisdiction over the corporation which is conducting the proceeding, or to a circuit court of competent jurisdiction. After receipt of an application and after giving any notice it considers necessary, the court may:

(a) Order indemnification if the court determines that the director or officer is entitled to mandatory indemnification under s. 607.0852;

(b) Order indemnification or advance for expenses if the court determines that the director or officer is entitled to indemnification or advance for expenses pursuant to a provision authorized by s. 607.0858(1); or

(c) Order indemnification or advance for expenses if the court determines, in view of all the relevant circumstances, that it is fair and reasonable to indemnify the director or officer or to advance expenses to the director or officer, even if he or she has not met the relevant standard of conduct set forth in s. 607.0851(1), has failed to comply with s. 607.0853, or was adjudged liable in a proceeding referred to in s. 607.0859. If the director or officer was adjudged liable, indemnification shall be limited to expenses incurred in connection with the proceeding.

(2) If the court determines that the director or officer is entitled to indemnification under paragraph (1)(a) or to indemnification or advance for expenses under paragraph (1)(b), it shall also order the corporation to pay the director’s or officer’s expenses incurred in connection with obtaining court-
ordered indemnification or advance for expenses. If the court
determines that the director or officer is entitled to
indemnification or advance for expenses under paragraph (1)(c),
it may also order the corporation to pay the director’s or
officer’s expenses to obtain court-ordered indemnification or
advance for expenses.
Section 111. Section 607.0855, Florida Statutes, is created
to read:

607.0855 Determination and authorization of
indemnification.—
(1) Unless ordered by a court under s. 607.0854(1)(c), a
corporation may not indemnify a director or officer under s.
607.0851 unless authorized for a specific proceeding after a
determination has been made that indemnification is permissible
because the director or officer has met the relevant standard of
conduct set forth in s. 607.0851.

(2) The determination shall be made:
(a) If there are two or more qualified directors, by the
board of directors by a majority vote of all of the qualified
directors, a majority of whom shall for such purposes constitute
a quorum, or by a majority of the members of a committee of two
or more qualified directors appointed by such a vote; or

(b) By independent special legal counsel:
1. Selected in the manner prescribed by paragraph (a); or
2. If there are fewer than two qualified directors,
selected by the board of directors, in which selection directors
who are not qualified directors may participate; or

(c) By the shareholders, but shares owned by or voted under
the control of a director or officer who, at the time of the

Section 112. Section 607.0857, Florida Statutes, is created
to read:

607.0857 Insurance.—A corporation shall have the power to
purchase and maintain insurance on behalf of and for the benefit
of an individual who is or was a director or officer of the
corporation, or who, while a director or officer of the
corporation, is or was serving at the corporation’s request as a
director, officer, manager, member, partner, trustee, employee,
or agent of another domestic or foreign corporation, limited
liability company, partnership, joint venture, trust, employee
benefit plan, or other enterprise or entity, against liability
asserted against or incurred by the individual in that capacity
or arising from his or her status as a director or officer,
whether or not the corporation would have power to indemnify or
advance expenses to the individual against the same liability
under this chapter.

Section 113. Section 607.0858, Florida Statutes, is created
to read:

607.0858 Variation by corporate action; application of
subsection.—

(1) The indemnification provided pursuant to ss. 607.0851
and 607.0852 and the advancement of expenses provided pursuant
to s. 607.0853 are not exclusive, and a corporation may, by a
provision in its articles of incorporation, bylaws or any
agreement, or by vote of shareholders or disinterested
directors, or otherwise, obligate itself in advance of the act
or omission giving rise to a proceeding to provide any other or
further indemnification or advancement of expenses to any of its
directors or officers. Any such obligatory provision shall be
deemed to satisfy the requirements for authorization referred to
in ss. 607.0853(3) and 607.0855(3). Any such provision that
obligates the corporation to provide indemnification to the
fullest extent permitted by law shall be deemed to obligate the
corporation to advance funds to pay for or reimburse expenses in
accordance with s. 607.0853 to the fullest extent permitted by
law, unless the provision specifically provides otherwise.

(2) A right of indemnification or to advance for expenses
created by this chapter or under subsection (1) and in effect at
the time of an act or omission may not be eliminated or impaired
with respect to such act or omission by an amendment of the
articles of incorporation or bylaws or a resolution of the
directors or shareholders, adopted after the occurrence of such
act or omission, unless, in the case of a right created under
subsection (1), the provision creating such right and in effect
at the time of such act or omission explicitly authorizes such
elimination or impairment after such act or omission has

(3) Any provision pursuant to subsection (1) shall not
obligate the corporation to indemnify or advance for expenses to
directors, or officers of a predecessor of the corporation,
pertaining to conduct with respect to the predecessor, unless
otherwise specifically provided. Any provision for
indemnification or advance for expenses in the articles of
incorporation, bylaws, or a resolution of the board of directors
or shareholders of a predecessor of the corporation in a merger
or in a contract to which the predecessor is a party, existing
at the time the merger takes effect, shall be governed by s.
607.1106(1)(d).

(4) Subject to subsection (2), a corporation may, by a
provision in its articles of incorporation, limit any of the
rights to indemnification or advance for expenses created by or
pursuant to this chapter.

(5) Sections 607.0850-607.0859 do not limit a corporation's
power to pay or reimburse expenses incurred by a director, an
officer, an employee, or an agent in connection with appearing
as a witness in a proceeding at a time when he or she is not a
party.

(6) Sections 607.0850-607.0859 do not limit a corporation's
power to indemnify, advance expenses to, or provide or maintain
insurance on behalf of or for the benefit of an individual who is or was an employee or agent.

Section 114. Section 607.0859, Florida Statutes, is created
to read:

607.0859 Overriding restrictions on indemnification.—

(1) Unless ordered by a court under s. 607.0854(1)(c), a
corporation may not indemnify a director or officer under s. 607.0851 or s. 607.0858 or advance expenses to a director or officer under s. 607.0853 or s. 607.0858 if a judgment or other final adjudication establishes that his or her actions, or omissions to act, were material to the cause of action so adjudicated and constitute:

(a) Willful or intentional misconduct or a conscious disregard for the best interests of the corporation in a proceeding by or in the right of the corporation to procure a judgment in its favor or in a proceeding by or in the right of a shareholder;

(b) A transaction in which a director or officer derived an improper personal benefit;

(c) A violation of the criminal law, unless the director or officer had reasonable cause to believe his or her conduct was lawful or had no reasonable cause to believe his or her conduct was unlawful; or

(d) In the case of a director, a circumstance under which the liability provisions of s. 607.0834 are applicable.

(2) A corporation may provide indemnification or advance expenses to a director or an officer only as allowed by ss. 607.0850-607.0858.

Section 115. Paragraphs (b), (d), (f), (h), (j), and (k) of subsection (1) and subsections (2), (4), (5), and (6) of section 607.0901, Florida Statutes, are amended to read:

607.0901 Affiliated transactions.—
(1) For purposes of this section:

(b) "Affiliated transaction," when used in reference to the corporation and any interested shareholder, means:

1. Any merger or consolidation of the corporation or any subsidiary of the corporation with:
   a. The interested shareholder; or
   b. Any other corporation, partnership, limited liability company, or other entity, in each case, whether or not itself an interested shareholder, which is, or after such merger or consolidation would be, an affiliate or associate of the interested shareholder;

2. Any sale, lease, exchange, mortgage, pledge, transfer, or other disposition (in one transaction or a series of transactions), except proportionately as a shareholder of such corporation, to or with the interested shareholder or any affiliate or associate of the interested shareholder, whether as part of a dissolution or otherwise, of assets, determined on a consolidated basis, of the corporation or any subsidiary of the corporation:
   a. Having an aggregate fair market value equal to 10 percent or more of the aggregate fair market value of all the assets, determined on a consolidated basis, of the corporation; or
   b. Having an aggregate fair market value equal to 10 percent or more of the aggregate fair market value of all the outstanding shares of the corporation; or
   c. Representing 10 percent or more of the earning power or net income, determined on a consolidated basis, of the corporation;

3. The issuance or transfer by the corporation or any subsidiary of the corporation (in one transaction or a series of transactions) of any shares of the corporation or any subsidiary of the corporation which have an aggregate fair market value equal to 10 percent or more of the aggregate fair market value of all the outstanding shares of the corporation; or

Paragraphs (b), (d), (f), (h), (j), and (k) of section 607.0901, Florida Statutes, are amended to read:

607.0901 Affiliated transactions.—
(1) For purposes of this section:

(b) "Affiliated transaction," when used in reference to the corporation and any interested shareholder, means:

1. Any merger or consolidation of the corporation or any subsidiary of the corporation with:
   a. The interested shareholder; or
   b. Any other corporation, partnership, limited liability company, or other entity, in each case, whether or not itself an interested shareholder, which is, or after such merger or consolidation would be, an affiliate or associate of the interested shareholder;

2. Any sale, lease, exchange, mortgage, pledge, transfer, or other disposition (in one transaction or a series of transactions), except proportionately as a shareholder of such corporation, to or with the interested shareholder or any affiliate or associate of the interested shareholder, whether as part of a dissolution or otherwise, of assets, determined on a consolidated basis, of the corporation or any subsidiary of the corporation:
   a. Having an aggregate fair market value equal to 10 percent or more of the aggregate fair market value of all the assets, determined on a consolidated basis, of the corporation; or
   b. Having an aggregate fair market value equal to 10 percent or more of the aggregate fair market value of all the outstanding shares of the corporation; or
   c. Representing 10 percent or more of the earning power or net income, determined on a consolidated basis, of the corporation;

3. The issuance or transfer by the corporation or any subsidiary of the corporation (in one transaction or a series of transactions) of any shares of the corporation or any subsidiary of the corporation which have an aggregate fair market value equal to 10 percent or more of the aggregate fair market value of all the outstanding shares of the corporation; or
Florida Senate - 2019

CS for CS for SB 892

590-03467A-19

Florida Senate - 2019

2019892c2

CS for CS for SB 892

590-03467A-19

2019892c2

5569

of all the outstanding shares of the corporation to the

5598

writing) with, the interested shareholder or any affiliate or

5570

interested shareholder or any affiliate or associate of the

5599

associate of the interested shareholder;

5571

interested shareholder except:

5600

5. Any reclassification of securities (including, without

5572

a. Pursuant to the exercise, exchange, or conversion of

5601

limitation, any stock split, stock dividend, or other

5573

securities exercisable for, exchangeable for, or convertible

5602

distribution of shares in respect of shares, or any reverse

5574

into shares of the corporation or any subsidiary of the

5603

stock split) or recapitalization of the corporation, or any

5575

corporation which were outstanding prior to the time that the

5604

merger or consolidation of the corporation with any subsidiary

5576

interested shareholder became such;

5605

of the corporation, or any other transaction (whether or not

5577

b. Pursuant to a merger under s. 607.11045;

5606

with or into or otherwise involving the interested shareholder),

5578

c. Provided that the interested shareholder’s proportionate

5607

with the interested shareholder or any affiliate or associate of

5579

share of the shares of any class or series of the corporation or

5608

the interested shareholder, which has the effect, directly or

5580

of the voting shares of the corporation has not increased as a

5609

indirectly (in one transaction or a series of transactions

5581

result thereof:

5610

during any 12-month period), of increasing by more than 10 5

5611

percent the percentage of the outstanding voting shares of the

5582

(I) Pursuant to a dividend or distribution paid or made, or

5583

the exercise, exchange, or conversion of securities exercisable

5612

corporation or any subsidiary of the corporation beneficially

5584

for, exchangeable for, or convertible into, shares of the

5613

owned by the interested shareholder; or

5585

corporation which security is distributed, pro rata to all

5614

5586

holders of a class or series of shares of such corporation

5615

affiliate or associate of the interested shareholder of the

5587

subsequent to the time the interested shareholder became such;

6. Any receipt by the interested shareholder or any

5616

benefit, directly or indirectly (except proportionately as a

5588

(II) Pursuant to an exchange offer by the corporation to

5617

shareholder of the corporation), of any loans, advances,

5589

purchase shares of such corporation made on the same terms to

5618

guaranties, pledges, or other financial assistance or any tax

5590

all holders of such shares; or

5619

credits or other tax advantages, other than those expressly

5620

allowed in subparagraph 3., provided by or through the
corporation or any subsidiary of the corporation.

5591

(III) Any issuance or transfer of shares by the

5592

corporation; of warrants or rights to purchase stock offered, or

5621

5593

a dividend or distribution paid or made, pro rata to all

5622

(d) “Associate,” when used to indicate a relationship with

5594

shareholders of the corporation;

5623

any person, means any entity, other than the corporation or any

5595

5624

of its subsidiaries, of which such person is an officer,

5596

or dissolution of the corporation proposed by, or pursuant to

4. The adoption of any plan or proposal for the liquidation

5625

director, or partner or is, directly or indirectly, the

5597

any agreement, arrangement, or understanding (whether or not in

5626

beneficial owner of 20 10 percent or more of any class of voting

Page 193 of 458

Page 194 of 458

CODING: Words stricken are deletions; words underlined are additions.

CODING: Words stricken are deletions; words underlined are additions.


1. Any member of the board of directors of the corporation
2. A majority of the board of directors of such corporation in good faith; and
2. In the case of property other than cash or shares, the
(2) Except to the extent as provided in subsections (4) and (5), and with respect to such exceptions, in compliance with other applicable provisions of this chapter, a corporation may not engage in any affiliated transaction with any interested shareholder for a period of 3 years following the time that such shareholder became an interested shareholder, unless:

(a) Prior to the time that such shareholder became an interested shareholder, the board of directors of the corporation approved either the affiliated transaction or the transaction which resulted in the shareholder becoming an interested shareholder; or

(b) Upon consummation of the transaction that resulted in the shareholder becoming an interested shareholder, the interested shareholder owned at least 85 percent of the voting shares of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the voting shares outstanding, but not the outstanding voting shares owned by the interested shareholder, those shares owned by persons who are directors and also officers and by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or

(c) At or subsequent to the time that such shareholder became an interested shareholder, the affiliated transaction is approved by the board of directors and authorized at an annual or special meeting of shareholders, and not by written consent, by the affirmative vote of at least two-thirds of the outstanding voting shares which are not owned by the interested shareholder, in addition to any affirmative vote required by any

Page 198 of 458

CODING: Words struck are deletions; words underlined are additions.
(4) The voting requirements set forth in subsection (2) do not apply to a particular affiliated transaction if all of the conditions specified in any one of the following paragraphs are met:

(a) The affiliated transaction has been approved by a majority of the disinterested directors;

(b) The corporation has not had more than 300 shareholders of record at any time during the 3 years preceding the announcement date;

(c) The interested shareholder has been the beneficial owner of at least 80 percent of the corporation’s outstanding voting shares for at least \( \frac{3}{4} \) years preceding the announcement date;

(d) The interested shareholder is the beneficial owner of at least 90 percent of the outstanding voting shares of the corporation, exclusive of shares acquired directly from the corporation in a transaction not approved by a majority of the disinterested directors;

(e) The corporation is an investment company registered under the Investment Company Act of 1940; or

(f) In the affiliated transaction, consideration shall be paid to the holders of each class or series of voting shares and all of the following conditions shall be met:

1. The aggregate amount of the cash and the fair market value as of the valuation date of consideration other than cash to be received per share by holders of each class or series of voting shares in such affiliated transaction are at least equal to the highest of the following:

   a. If applicable, the highest per share price, including any brokerage commissions, transfer taxes, and soliciting dealers’ fees, paid by the interested shareholder for any shares of such class or series acquired by it within the 2-year period immediately preceding the announcement date or in the transaction in which it became an interested shareholder, whichever is higher;

   b. The fair market value per share of such class or series on the announcement date or on the determination date, whichever is higher;

   c. If applicable, the price per share equal to the fair market value per share of such class or series determined pursuant to sub-subparagraph b., multiplied by the ratio of the highest per share price, including any brokerage commissions, transfer taxes, and soliciting dealers’ fees, paid by the interested shareholder for any shares of such class or series acquired by it within the 2-year period immediately preceding the announcement date, to the fair market value per share of such class or series on the first day in such 2-year period on which the interested shareholder acquired any shares of such class or series; and

   d. If applicable, the highest preferential amount, if any, per share to which the holders of such class or series are entitled in the event of any voluntary or involuntary dissolution of the corporation.
2. The consideration to be received by holders of outstanding shares shall be in cash or in the same form as the interested shareholder has previously paid for shares of the same class or series, and if the interested shareholder has paid for shares with varying forms of consideration, the form of the consideration shall be either cash or the form used to acquire the largest number of shares of such class or series previously acquired by the interested shareholder;

3. During such portion of the 3-year period preceding the announcement date that such interested shareholder has been an interested shareholder, except as approved by a majority of the disinterested directors:
   a. There shall have been no failure to declare and pay at the regular date therefor any full periodic dividends, whether or not cumulative, on any outstanding shares of the corporation;
   b. There shall have been:
      (I) No reduction in the annual rate of dividends paid on any class or series of voting shares, except as necessary to reflect any subdivision of the class or series; and
      (II) An increase in such annual rate of dividends necessary to reflect any reclassification, including any reverse stock split, recapitalization, reorganization, or similar transaction which has the effect of reducing the number of outstanding shares of the class or series; and
   c. Such interested shareholder shall not have become the beneficial owner of any additional voting shares except as part of the transaction which results in such interested shareholder becoming an interested shareholder;

4. During such portion of the 3-year period preceding the announcement date that such interested shareholder has been an interested shareholder, except as approved by a majority of the disinterested directors, such interested shareholder shall not have received the benefit, directly or indirectly (except proportionately as a shareholder), of any loans, advances, guaranties, pledges, or other financial assistance or any tax credits or other tax advantages provided by the corporation, whether in anticipation of or in connection with such affiliated transaction or otherwise; and

5. Except as otherwise approved by a majority of the disinterested directors, a proxy or information statement describing the affiliated transaction and complying with the requirements of the Exchange Act and the rules and regulations thereunder has been mailed to holders of voting shares of the corporation at least 25 days before the consummation of such affiliated transaction, whether or not such proxy or information statement is required to be mailed pursuant to the Exchange Act or such rules or regulations.

(5) The provisions of this section do not apply:
   (a) To any corporation the original articles of incorporation of which contain a provision expressly electing not to be governed by this section;
   (b) To any corporation which adopted an amendment to its articles of incorporation prior to January 1, 1982, expressly electing not to be governed by this section, provided that such amendment does not apply to any affiliated transaction of the corporation with an interested shareholder whose determination date is on or prior to the effective date of such amendment;
(c) To any corporation which adopts an amendment to its articles of incorporation or bylaws, approved by the affirmative vote of the holders, other than interested shareholders and their affiliates and associates, of a majority of the outstanding voting shares of the corporation, excluding the voting shares of interested shareholders and their affiliates and associates, expressly electing not to be governed by this section, provided that such amendment to the articles of incorporation or bylaws shall not be effective until 18 months after such vote of the corporation’s shareholders and shall not apply to any affiliated transaction of the corporation with an interested shareholder whose determination date is on or prior to the effective date of such amendment; or

(d) To any affiliated transaction of the corporation with an interested shareholder of the corporation which became an interested shareholder inadvertently, if such interested shareholder, as soon as practicable, divests itself of a sufficient amount of the voting shares of the corporation so that it no longer is the beneficial owner, directly or indirectly, of 20 percent or more of the outstanding shares of the corporation, and would not at any time within the 3-year period preceding the announcement date with respect to such affiliated transaction have been an interested shareholder but for such inadvertent acquisition.

(6) Any corporation that elected not to be governed by this section, either through a provision in its original articles of incorporation or through an amendment to its articles of incorporation or bylaws may elect to be bound by the provisions of this section by adopting an amendment to its articles of incorporation or bylaws that repeals the original article or the amendment. In addition to any requirements of this chapter or the articles of incorporation or bylaws of the corporation, any such amendment shall be approved by the affirmative vote of the holders of two-thirds of the voting shares other than shares beneficially owned by any interested shareholder.

Section 116. Paragraph (d) of subsection (2) of section 607.0902, Florida Statutes, is amended to read:

607.0902 Control-share acquisitions.—

(2) “CONTROL-SHARE ACQUISITION.”—

(d) The acquisition of any shares of an issuing public corporation does not constitute a control-share acquisition if the acquisition is consummated in any of the following circumstances:

3. Pursuant to the laws of intestate succession or pursuant to a gift or testamentary transfer.
4. Pursuant to the satisfaction of a pledge or other security interest created in good faith and not for the purpose of circumventing this section.
5. Pursuant to a merger or share exchange effected in compliance with s. 607.1101, s. 607.1102, s. 607.1103, s. 607.1104, or s. 607.1105, if the issuing public corporation is a party to the agreement of merger or plan of share exchange.
6. Pursuant to any savings, employee stock ownership, or other employee benefit plan of the issuing public corporation or any of its subsidiaries or any fiduciary with respect to any

CODING: Words **stricken** are deletions; words **underlined** are additions.
such plan when acting in such fiduciary capacity.

7. Pursuant to an acquisition of shares of an issuing public corporation if the acquisition has been approved by the board of directors of such issuing public corporation before acquisition.

Section 117. Subsection (1) of section 607.1001, Florida Statutes, is amended to read:

607.1001 Authority to amend the articles of incorporation.—

(1) A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles of incorporation or to delete a provision not required to be contained in the articles of incorporation. Whether a provision is required or permitted in the articles of incorporation is determined as of the effective date of the amendment.

Section 118. Section 607.1002, Florida Statutes, is amended to read:

607.1002 Amendment by board of directors.—Unless the articles of incorporation provide otherwise, a corporation’s board of directors may adopt one or more amendments to the corporation’s articles of incorporation without shareholder approval action:

(1) To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(2) To delete the names and addresses of the initial directors;

(3) To delete the name and address of the initial registered agent or registered office, if a statement of change

is on file with the department of State;

(4) To delete any other information contained in the articles of incorporation that is solely of historical interest;

(5) To delete the authorization for a class or series of shares authorized pursuant to s. 607.0602, if no shares of such class or series are issued;

(6) To change the corporate name by substituting the word “corporation,” “incorporated,” or “company,” or the abbreviation “corp.,” “Inc.,” or “Co.,” for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution for the name;

(7) To change the par value for a class or series of shares;

(8) To provide that if the corporation acquires its own shares, such shares belong to the corporation and constitute treasury shares until disposed of or canceled by the corporation;

(9) To reflect a reduction in authorized shares, as a result of the operation of s. 607.0631(2), when the corporation has acquired its own shares and the articles of incorporation prohibit the reissue of the acquired shares;

(10) To delete a class of shares from the articles of incorporation, as a result of the operation of s. 607.0631(2), when there are no remaining shares of the class because the corporation has acquired all shares of the class and the articles of incorporation prohibit the reissue of the acquired shares; or

(11) To make any other change expressly permitted by this act to be made without shareholder approval action.
Section 119. Subsections (4), (6), and (8) of section 607.10025, Florida Statutes, are amended to read:

607.10025 Shares; combination or division.—

(4) If a division or combination is effected by a board action without shareholder approval and includes an amendment to the articles of incorporation, there shall be signed in accordance with s. 607.0120 on behalf of the corporation and filed in the office of the department of State articles of amendment which shall set forth:

(a) The name of the corporation.

(b) The date of adoption by the board of directors of the resolution approving the division or combination.

(c) That the amendment to the articles of incorporation does not adversely affect the rights or preferences of the holders of outstanding shares of any class or series and does not result in the percentage of authorized shares that remain unissued after the division or combination exceeding the percentage of authorized shares that were unissued before the division or combination.

(d) The class or series and number of shares subject to the division or combination and the number of shares into which the shares are to be divided or combined.

(e) The amendment of the articles of incorporation made in connection with the division or combination.

(f) If the division or combination is to become effective at a time subsequent to the time of filing, the date, which may not exceed 90 days after the date of filing, when the division or combination becomes effective.

(6) If a division or combination is effected by action of the board and of the shareholders, there shall be signed on behalf of the corporation and filed with the department of State articles of amendment as provided in s. 607.08, which articles shall set forth, in addition to the information required by s. 607.1006, the information required in subsection (4).

(2) This section applies only to corporations with more than 35 shareholders of record.

Section 120. Section 607.1003, Florida Statutes, is amended to read:

607.1003 Amendment by board of directors and shareholders.—

If a corporation has issued shares, an amendment to the articles of incorporation shall be adopted in the following manner:

(1) The proposed amendment shall first be adopted by the board of directors. A corporation's board of directors may propose one or more amendments to the articles of incorporation for submission to the shareholders.

(2)(a) Except as provided in ss. 607.1002, 607.10025, and 607.1008, and, with respect to restatements that do not require shareholder approval, s. 607.1007, the amendment shall then be approved by the shareholders.

(b) In submitting the proposed amendment to the shareholders for approval, the board of directors shall recommend that the shareholders approve the amendment unless:

1. The board of directors makes a determination that because of a conflict of interest or other special circumstances it should not make such a recommendation; or

2. Section 607.0826 applies.

(c) If either subparagraph (b)1. or subparagraph (b)2.

Page 208 of 458
(5) Unless this chapter act, the articles of incorporation,
its so proceeding without such recommendation, for the amendment,
to be adopted:
   (a) The board of directors must recommend the amendment to
the shareholders, unless the board of directors determines that
because of conflict of interest or other special circumstances
it should make no recommendation and communicates the basis for
its determination to the shareholders with the amendment; and
   (b) The shareholders entitled to vote on the amendment must
approve the amendment as provided in subsection (5).

(3) The board of directors may set conditions for the
approval of the amendment by the shareholders or the
effectiveness of the amendment, condition its submission of the
proposed amendment on any basis.

(4) If the amendment is required to be approved by the
shareholders, and the approval is to be given at a meeting, the
corporation must notify each shareholder, whether or not
entitled to vote, of the meeting of shareholders at which the
amendment is to be submitted for approval. The notice must be
given in accordance with s. 607.0705, state that the purpose, or
one of the purposes, of the meeting is to consider the
amendment, and must contain or be accompanied by a copy of the
amendment. The corporation shall notify each shareholder, whether
or not entitled to vote, of the proposed shareholders’ meeting
in accordance with s. 607.0705. The notice of meeting shall also
state that the purpose, or one of the purposes, of the meeting
is to consider the proposed amendment and contain or be
accompanied by a copy or summary of the amendment.

(5) Unless this chapter act, the articles of incorporation,
(8) If as a result of an amendment of the articles of incorporation one or more shareholders of a domestic corporation would become subject to new interest holder liability, approval of the amendment shall require the signing in connection with the amendment, by each such shareholder, of a separate written consent to become subject to such new interest holder liability, unless in the case of a shareholder that already has interest holder liability the terms and conditions of the new interest holder liability are substantially identical to those of the existing interest holder liability (other than changes that eliminate or reduce such interest holder liability).

(a) Effect an exchange or reclassification of all or part of the shares of the class into shares of another class.

(b) Effect an exchange or reclassification, or create a right of exchange, of all or part of the shares of another class into the shares of the class.

(c) Change the designation, rights, preferences, or limitations of all or part of the shares of the class.

(d) Change the shares of all or part of the class into a different number of shares of the same class.

(e) Create a new class of shares having rights or preferences with respect to distributions or to dissolution that are prior or superior to the shares of the class.

(f) Increase the rights, preferences, or number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions or to dissolution that are prior or superior to the shares of the class.

(g) Limit or deny an existing preemptive right of all or part of the shares of the class.

(h) Cancel or otherwise affect rights to distributions or dividends that have accumulated but not yet been declared on all or part of the shares of the class.

(2) If a proposed amendment would affect a series of a class of shares in one or more of the ways described in subsection (1), the shares of that series are entitled to vote as a separate voting group class on the proposed amendment.

(3) If a proposed amendment that entitles the holders of two or more classes or series of shares to vote as separate voting groups under this section would affect those two or more classes or series in the same or substantially similar way, the...
holders of the shares of all the classes or series so affected must vote together as a single voting group on the proposed amendment, unless otherwise provided in the articles of incorporation or added as a condition by the board of directors pursuant to s. 607.1003(3).

(4) A class or series of shares is entitled to the voting rights granted by this section even if although the articles of incorporation provide that the shares are nonvoting shares.

Section 122. Section 607.1005, Florida Statutes, is amended to read:

607.1005 Amendment before issuance of shares.—If a corporation has not yet issued any shares, its board of directors, or a majority of its incorporators if it has no board of directors, may adopt one or more amendments to the corporation’s articles of incorporation.

Section 123. Section 607.1006, Florida Statutes, is amended to read:

607.1006 Articles of amendment.—

(1) After an amendment to the articles of amendment has been adopted and approved as required by this chapter, the corporation shall deliver to the Department of State for filing articles of amendment which shall be signed in accordance with s. 607.0120 and which must set forth:

(a) The name of the corporation;

(b) The text of each amendment adopted, or the information required by s. 607.0120(1)(e), if applicable;

(c) If an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself, which may be made dependent upon facts objectively ascertainable outside of the articles of amendment in accordance with s. 607.0120(1)(b);

(d) The date of each amendment’s adoption; and

(e) If an amendment:

1. Was adopted by the incorporators or board of directors without shareholder approval action, a statement that the amendment was duly adopted by the incorporators or by the board of directors, as the case may be, to that effect and that shareholder approval action was not required;

2. If an amendment was approved Required approval by the shareholders, a statement that the number of votes cast for the amendment by the shareholders in a manner required by this chapter and by the articles of incorporation was sufficient for approval and if more than one voting group was entitled to vote on the amendment, a statement designating each voting group entitled to vote separately on the amendment, and a statement that the number of votes cast for the amendment by the shareholders in each voting group was sufficient for approval by that voting group; or

3. Is being filed pursuant to s. 607.0120(1)(e), a statement to that effect.

(2) Articles of amendment shall take effect at the effective date determined pursuant to s. 607.0123.

Section 124. Section 607.1007, Florida Statutes, is amended to read:

607.1007 Restated articles of incorporation.—

(1) A corporation’s board of directors may restate its
(d) If one or more new amendments are included in the restated articles, the statements required under s. 607.1006 with respect to each new amendment, together with a certificate setting forth:

(a) Whether the restatement contains an amendment to the articles requiring shareholder approval and, if it does not, that the board of directors adopted the restatement; or
(b) If the restatement contains an amendment to the articles requiring shareholder approval, the information required by s. 607.1006.

(5) Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments to the articles of incorporation thereon.

(6) The department of state may certify restated articles of incorporation, as the articles of incorporation currently in effect, without including the statements certificate information required by subsection (4).

Section 125. Subsections (1), (2), and (3) of section 607.1008, Florida Statutes, are amended to read:

607.1008, Florida Statutes, are amended to read:

607.1008 Amendment pursuant to reorganization.—

(1) A corporation’s articles of incorporation may be amended without action by the board of directors or shareholders to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under the authority of a law of the United States or of this state. Any federal or Florida statute requiring the articles of incorporation after amendment contain any provisions required or permitted by s. 607.0202.

(2) The individual or individuals designated by the court shall deliver to the department of state for filing articles of amendment setting forth:

Page 216 of 458
(a) The name of the corporation;
(b) The text of each amendment approved by the court;
(c) The date of the court’s order or decree approving the articles of amendment;
(d) The title of the reorganization proceeding in which the order or decree was entered; and
(e) A statement that the court had jurisdiction of the proceeding under a federal or Florida statute.

(3) Shareholders of a corporation undergoing reorganization do not have appraisal dissenters’ rights except as and to the extent provided in the reorganization plan.

Section 126. Section 607.1009, Florida Statutes, is amended to read:

607.1009 Effect of amendment.—

(1) An amendment to articles of incorporation does not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, or the existing rights of persons other than shareholders of the corporation. An amendment changing a corporation’s name does not affect a proceeding brought by or against the corporation in its former name.

(2) A shareholder who becomes subject to new interest holder liability in respect of the corporation as a result of an amendment to the articles of incorporation shall have that new interest holder liability only in respect of interest holder liabilities that arise after the amendment becomes effective.

(3) Except as otherwise provided in the articles of incorporation of the corporation, the interest holder liability of a shareholder who had interest holder liability in respect of the corporation before the amendment becomes effective and has new interest holder liability after the amendment becomes effective shall be as follows:

(a) The amendment does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the amendment becomes effective.

(b) The provisions of the articles of incorporation relating to interest holder liability as in effect immediately prior to the amendment shall continue to apply to the collection or discharge of any interest holder liabilities preserved by paragraph (a), as if the amendment had not occurred.

(c) The shareholder shall have such rights of contribution from other persons as are provided by the articles of incorporation relating to interest holder liability as in effect immediately prior to the amendment with respect to any interest holder liabilities preserved by paragraph (3)(a), as if the amendment had not occurred.

(d) The shareholder shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that arise after the amendment becomes effective.

Section 127. Subsection (1) of section 607.1020, Florida Statutes, is amended, and subsection (3) is added to that section, to read:

607.1020 Amendment of bylaws by board of directors or shareholders.—

(1) A corporation’s board of directors may amend or repeal the corporation’s bylaws unless:
Section 128. Subsection (1) of section 607.1021, Florida Statutes, is amended to read:

607.1021 Bylaw increasing quorum or voting requirements for shareholders.—

(1) If authorized by the articles of incorporation, the shareholders may adopt or amend a bylaw that fixes a greater quorum or voting requirement for shareholders (or voting groups of shareholders) than is required by this chapter. The adoption or amendment of a bylaw that adds, changes, or deletes a greater quorum or voting requirement for shareholders must meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

Section 129. Section 607.1022, Florida Statutes, is amended to read:

607.1022 Bylaw increasing quorum or voting requirements for directors.—

(1) Unless the articles of incorporation specifically prohibit the adoption of a bylaw pursuant to this section, alter the vote specified in s. 607.0728(1), or provide for cumulative voting, a corporation may elect in its bylaws to be governed in the election of directors as follows:

(a) Each vote entitled to be cast may be voted for or
against up to the number of candidates that is equal to the
number of directors to be elected, or a shareholder may indicate
an abstention, but without cumulating the votes;
  (b) To be elected, a nominee must have received a plurality
of the votes cast by holders of shares entitled to vote in the
election at a meeting at which a quorum is present, provided
that a nominee who is elected but receives more votes against
than for election shall serve as a director for a term that
shall terminate on the date that is the earlier of 90 days from
the date on which the voting results are determined pursuant to
s. 607.0729(2)(e) or the date on which an individual is selected
by the board of directors to fill the office held by such
director, which selection shall be deemed to constitute the
filling of a vacancy by the board to which s. 607.0809 applies.
Subject to paragraph (c), a nominee who is elected but receives
more votes against than for election shall not serve as a
director beyond the 90-day period referenced above; and
  (c) The board of directors may select any qualified
individual to fill the office held by a director who received
more votes against than for election.
  (2) Subsection (1) does not apply to an election of
directors by a voting group if:
  (a) At the expiration of the time fixed under a provision
requiring advance notification of director candidates; or
  (b) Absent such a provision, at a time fixed by the board
of directors which is not more than 14 days before notice is
given of the meeting at which the election is to occur,
there are more candidates for election by the voting group than

the number of directors to be elected, one or more of whom are
properly proposed by shareholders. An individual shall not be
considered a candidate for purposes of this subsection if the
board of directors determines before the notice of meeting is
given that such individual’s candidacy does not create a bona
fide election contest.
  (3) A bylaw electing to be governed by this section may be
repealed:
  (a) If originally adopted by the shareholders, only by the
shareholders, unless the bylaw otherwise provides; or
  (b) If adopted by the board of directors, by the board of
directors or the shareholders.

Section 131. Section 607.1101, Florida Statutes, is amended
to read:
  607.1101 Merger.—
  (1) By complying with this chapter, including adopting a
plan of merger in accordance with subsection (3) and complying
with s. 607.1103:
    (a) One or more domestic corporations may merge with one or
more domestic or foreign eligible entities pursuant to a plan of
merger, resulting in a survivor; and
    (b) Any two or more entities, each of which is either a
domestic eligible entity or a foreign eligible entity, may
merge, resulting in a survivor that is a domestic corporation
created in the merger into another corporation if the board of
directors of each corporation adopts its shareholders (if
required by s. 607.1101) approve a plan of merger.
  (2) A domestic eligible entity that is not a corporation
may be a party to a merger with a domestic corporation, or may
be created as the survivor in a merger in which a domestic corporation is a party, but only if the parties to the merger comply with the applicable provisions of this chapter and the merger is permitted by the organic law of the domestic eligible entity that is not a corporation. A foreign eligible entity may be a party to a merger with a domestic corporation, or may be created as the survivor in a merger in which a domestic corporation is a party, but only if the parties to the merger comply with the applicable provisions of this chapter and the merger is permitted by the organic law of the foreign eligible entity.

(3) The plan of merger must set forth:

(a) As to each party to the merger, its name, jurisdiction of formation, and type of entity;

(b) The survivor's name, jurisdiction of formation, and type of entity, and, if the survivor is to be created in the merger, a statement to that effect. The name of each corporation planning to merge and the name of the surviving corporation into which each other corporation plans to merge, which is hereinafter designated as the surviving corporation;

(c) The terms and conditions of the proposed merger; and

(d) The manner and basis of converting eligible interests of each merging domestic or foreign eligible entity into:

a. Shares or other securities;

b. Eligible interests;

c. Obligations;

d. Rights to acquire shares, other securities, or eligible interests.

e. Cash;

f. Other property;

g. Any combination of the foregoing;

2. Rights to acquire shares of each merging domestic or foreign corporation and rights to acquire eligible interests of each merging domestic or foreign eligible entity into:

a. Shares or other securities;

b. Eligible interests;

c. Obligations;

d. Rights to acquire shares, other securities, or eligible interests;

e. Cash;

f. Other property;

g. Any combination of the foregoing;

(e) The articles of incorporation of any domestic or foreign corporation, or the public organic record of any other domestic or foreign eligible entity to be created by the merger, or if a new domestic or foreign corporation or other eligible entity is not to be created by the merger, any amendments to, or restatements of, the survivor's articles of incorporation or other public organic record;

(f) The effective date and time of the merger, which may be on or after the filing date of the articles of merger; and

(g) Any other provisions required by the laws under which any party to the merger is organized or by which it is governed, or by the articles of incorporation or organic rules of any such party corporation into shares, obligations, or other securities of the surviving corporation or any other corporation or, in
The plan of merger may contain any other provision that is not prohibited by law that facilitates the purposes of the plan, including any one or more of the following:

(a) Amendments to, or a restatement of, the articles of incorporation of the surviving corporation;
(b) The effective date of the merger, which may be on or after the date of filing the certificate; and
(c) Other provisions relating to the merger.

5. Terms of a plan of merger may be made dependent on facts objectively ascertainable outside the plan in accordance with s. 607.0120(11).

6. A plan of merger may be amended only with the consent of each party to the merger, except as provided in the plan. A domestic party to a merger may approve an amendment to a plan:

(a) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or
(b) In the manner provided in the plan, except that shareholders, members, or interest holders that were entitled to vote on or consent to the approval of the plan are entitled to vote on or consent to any amendment to the plan that will change:

1. The amount or kind of shares or other securities, eligible interests, obligations, rights to acquire shares, other securities, or eligible interests, members, or interest holders of any party to the merger;

2. The articles of incorporation of any domestic corporation, or the organic rules of any other type of entity, that will be the survivor of the merger, except for changes permitted by s. 607.1002 or by comparable provisions of the organic law of any other type of entity; or

3. Any of the other terms or conditions of the plan if the change would adversely affect such shareholders, members, or interest holders in any material respect.

7. The redomestication of a foreign insurer to this state under s. 628.520 shall be deemed a merger of a foreign corporation and a domestic corporation, and the surviving corporation shall be deemed to be a domestic corporation incorporated under the laws of this state. The redomestication of a Florida corporation to a foreign jurisdiction under s. 628.525 shall be deemed a merger of a domestic corporation and a foreign corporation, and the surviving corporation shall be deemed to be a foreign corporation.

CODING: Words stricken are deletions; words underlined are additions.
590-03467A-19 2019892c2

rights to acquire shares of one or more classes or series of shares or rights to acquire shares of another domestic or foreign corporation, or all of the eligible interests of one or more classes or series of interests of a domestic or foreign eligible entity, or any combination of the foregoing, pursuant to a plan of share exchange, in exchange for:

1. Shares or other securities.
2. Eligible interests.
3. Obligations.
4. Rights to acquire shares, other securities, or eligible interests.
5. Cash.
6. Other property.
7. Any combination of the foregoing; or
(b) All of the shares of one or more classes or series of shares or rights to acquire shares of a domestic corporation may be acquired by another domestic or foreign eligible entity, pursuant to a plan of share exchange, in exchange for:

1. Shares or other securities.
2. Eligible interests.
3. Obligations.
4. Rights to acquire shares, other securities, or eligible interests.
5. Cash.
6. Other property.
7. Any combination of the foregoing.
(2) A foreign eligible entity may be the acquired eligible entity in a share exchange only if the share exchange is permitted by the organic law of that eligible entity.

590-03467A-19 2019892c2

a corporation may acquire all of the outstanding shares of one or more classes or series of another corporation if the board of directors of each corporation adopts and its shareholders (if required by s. 607.1103) approve a plan of share exchange.

(3)(a) The plan of share exchange must shall set forth:

(a) The name of each domestic or foreign eligible entity the corporation the shares or eligible interests of which will be acquired and the name of the domestic or foreign corporation or eligible entity that will acquire those shares or eligible interests acquiring corporation;

(b) The terms and conditions of the share exchange;

(c) The manner and basis of exchanging:

1. The shares of each domestic or foreign corporation, and the eligible interests of each domestic or foreign eligible entity, the shares or eligible interests that are to be acquired in the share exchange, into shares or other securities, eligible interests, obligations, rights to acquire shares, other securities, or eligible interests, cash, other property, or any combination of the foregoing; and

2. Rights to acquire shares of each domestic or foreign corporation and rights to acquire eligible interests of each domestic or foreign eligible entity, that are to be acquired in the share exchange, into shares or other securities, eligible interests, obligations, rights to acquire shares, other securities, or eligible interests, cash, other property, or any combination of the foregoing; and

(d) Any other provisions required by the organic law governing the acquired eligible entity or its articles of incorporation or organic rules the shares to be acquired for.
In addition to the requirements of subsection (3), the plan of share exchange may contain any other provisions that are not prohibited by law set forth other provisions relating to the exchange.

(4)(b) In submitting the plan of merger or the plan of share exchange may be made dependent on facts objectively ascertainable outside the plan in accordance with s. 607.0120 (11).

(5) Terms of a plan of share exchange may be made dependent on facts objectively ascertainable outside the plan in accordance with s. 607.0120 (11).

(6) A plan of share exchange may be amended only with the consent of each party to the share exchange, except as provided in the plan. A domestic eligible entity may approve an amendment to a plan:

(a) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

(b) In the manner provided in the plan, except that shareholders, members, or interest holders that were entitled to vote on or consent to approval of the plan are entitled to vote on or consent to any amendment of the plan that will change:

1. The amount or kind of shares or other securities, eligible interests, obligations, rights to acquire shares, other securities, or eligible interests, cash, or other property to be received under the plan by the shareholders, members, or interest holders of the acquired eligible entity; or

2. Any of the other terms or conditions of the plan if the change would adversely affect such shareholders, members, or interest holders in any material respect.

(7)(a) This section does not limit the power of a corporation to acquire all or part of the shares, or rights to acquire shares, of one or more classes or series of another corporation or eligible interests, or rights to acquire eligible interests, of any other eligible entity through a voluntary exchange or otherwise.

Section 133. Section 607.1103, Florida Statutes is amended to read:

607.1103 Action on a plan of merger or share exchange.—In the case of a domestic corporation that is a party to a merger or the acquired eligible entity in a share exchange, the plan of merger or the plan of share exchange must be adopted in the following manner:

(1) The plan of merger or the plan of share exchange shall first be adopted by the board of directors of such domestic corporation each corporation party to the merger, and the board of directors of the corporation the shares of which will be acquired in the share exchange, shall submit the plan of merger (except as provided in subsection (7)(b) or the plan of share exchange for approval by its shareholders.

(2)(a) Except as provided in subsections (8), (10), and (11), and in ss. 607.11035 and 607.1104, the plan of merger or the plan of share exchange shall then be adopted by the shareholders.

(b) In submitting the plan of merger or the plan of share exchange.
exchange to the shareholders for approval, the board of directors shall recommend that the shareholders approve the plan, or in the case of an offer referred to in s. 607.11035(1)(b), that the shareholders tender their shares to the offeror in response to the offer, unless:

1. The board of directors makes a determination that because of conflicts of interest or other special circumstances, it should not make such a recommendation; or

2. Section 607.0826 applies.

(c) If either subparagraph (b)1. or subparagraph (b)2. applies, the board shall inform the shareholders of the basis for its so proceeding without such recommendation for a plan of merger or share exchange to be approved.

(a) The board of directors must recommend the plan of merger or share exchange to the shareholders, unless the board of directors determines that it should make no recommendation because of conflict of interest or other special circumstances and communicates the basis for its determination to the shareholders with the plan, and

(b) The shareholders entitled to vote must approve the plan as provided in subsection (5).

(3) The board of directors may set conditions for the approval condition its submission of the proposed merger or share exchange by the shareholders or the effectiveness of the plan of merger or the plan of share exchange on any basis.

(4) If the plan of merger or the plan of share exchange is required to be approved by the shareholders, and if the approval is to be given at a meeting, the corporation shall notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the plan is submitted for approval. The corporation the shareholders of which are entitled to vote on the matter shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders’ meeting in accordance with s. 607.0705. The notice shall also state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger or the plan of share exchange, regardless of whether or not the meeting is an annual or a special meeting, and contain or be accompanied by a copy of summary of the plan. If the corporation is to be merged into an existing foreign or domestic eligible entity, the notice must also include or be accompanied by a copy of the articles of incorporation and bylaws or the organic rules of that eligible entity into which the corporation is to be merged. If the corporation is to be merged with a domestic or foreign eligible entity and a new domestic or foreign eligible entity is to be created pursuant to the merger, the notice must include or be accompanied by a copy of the articles of incorporation and bylaws or the organic rules of the new eligible entity.

Furthermore, if applicable, the notice shall contain a clear and concise statement that, if the plan of merger or share exchange is effected, shareholders dissenting therefrom may be entitled, if they comply with the provisions of this chapter or regarding appraisal rights, to be paid the fair value of their shares, and shall be accompanied by a copy of ss. 607.1301-607.1340.

(5) Unless this chapter, the articles of incorporation, or the board of directors (acting pursuant to subsection (3)) requires a greater vote or a greater quorum in the respective
By each class or series of shares of the corporation that would have been entitled to vote as a separate group on any such amendment to the articles of incorporation referenced in subparagraph (a)1., by a quorum of the voting group is present by a majority of the votes entitled to be cast on the plan by that class, the plan of merger or the plan of share exchange, the approval of the plan of merger or the plan of share exchange shall require the approval of the shareholders at a meeting at which a quorum exists by a majority of the votes entitled to be cast on the plan, and, if any class or series of shares is entitled to vote as a separate group on the plan of merger or the plan of share exchange, the approval of each such separate voting group at a meeting at which a quorum of the voting group is present by a majority of the votes entitled to be cast on the merger or share exchange by that voting group as to be authorized shall be approved by each class or series of shares of the corporation that would have been entitled to vote as a separate group.

Subject to subsection (7), voting by a class or series of shares of the corporation, that would entitle that class or series to vote as a separate voting group, would have entitled the class or series to vote as a separate voting group on the proposed amendment under s. 607.1004; or

2. If the plan contains a provision that would allow the plan to be amended to include the type of amendment to the articles of incorporation referenced in subparagraph 1., by each class or series of shares of the corporation that would have been entitled to vote as a separate group on any such amendment to the articles of incorporation, or

3. By each class or series of shares of the corporation that is to be converted under the plan of merger into shares, other securities, eligible interests, obligations, rights to acquire shares, other securities, or eligible interests, cash, property, or any combination of the foregoing; or

4. If the plan contains a provision that would allow the plan to be amended to convert other classes or series of shares of the corporation, by each class or series of shares of the corporation that would have been entitled to vote as a separate group if the plan were to be so amended.

(b) Subject to subsection (7), voting by a class or series of shares as a separate voting group is required on a plan of share exchange:

1. By each class or series that is to be exchanged in the exchange, with each class or series constituting a separate voting group; or

2. If the plan contains a provision that would allow the plan to be amended to include the type of amendment to the articles of incorporation referenced in subparagraph (6)(a), by each class or series of shares of the corporation that would have been entitled to vote as a separate group on any such amendment to the articles of incorporation.

(c) Subject to subsection (7), voting by a class or series of shares as a separate voting group is required on a plan of merger or a plan of share exchange if the group is entitled under the articles of incorporation to vote as a voting group to approve the plan of merger or the plan of share exchange, respectively.

(7) The articles of incorporation may expressly limit or eliminate the separate voting rights provided in subparagraphs (6)(a)3. or 4. or subparagraph (6)(b)1. as to any class or series of shares of the corporation.
series of shares, except when the plan of merger or the plan for share exchange:

(a) Includes what is or would be, in effect, an amendment subject to any one or more of subparagraphs (6)(a)1. and 2. and subparagraph (6)(b)2.; and

(b) Will not affect a substantive business combination if the shares of such class or series of shares are to be converted or exchanged under such plan or if the plan contains any provisions which, if contained in a proposed amendment to articles of incorporation, would entitle the class or series to vote as a separate voting group on the proposed amendment under s. 607.1004.

(8) Unless the corporation’s articles of incorporation provide otherwise, approval by the corporation’s shareholders of Notwithstanding the requirements of this section, unless required by its articles of incorporation, action by the shareholders of the surviving corporation as a plan of merger is not required if:

(a) The corporation will survive the merger;

(b) The articles of incorporation of the surviving corporation will not differ (except for amendments enumerated in s. 607.1002) from its articles of incorporation before the merger; and

(c) Each shareholder of the surviving corporation whose shares were outstanding immediately prior to the effective date of the merger will hold the same number of shares, with identical designations, preferences, rights, and limitations and relative rights, immediately after the effective date of the merger.

CODING: Words [[deletions]] are deletions; words [[underlined]] are additions.
(a) The new interest holder liability is with respect to a
domestic or foreign corporation (which may be a different or the
same domestic corporation in which the person is a shareholder); and

(b) The terms and conditions of the new interest holder
liability are substantially identical to those of the existing
interest holder liability (other than for changes that reduce or
eliminate such interest holder liability).

(c) The offer discloses that the plan of merger or the plan
provide, shares in the acquired eligible entity not to be
exchanged under the plan of share exchange are not entitled to
vote on the plan. Unless a plan of merger or share exchange
prohibits abandonment of the merger or share exchange without
shareholder approval after a merger or share exchange has been
authorized, the planned merger or share exchange may be
abandoned (subject to any contractual rights) at any time prior
to the filing of articles of merger or share exchange by any
acquisition party to the merger or share exchange, without
further shareholder action, in accordance with the procedure set
forth in the plan of merger or share exchange or, if none is set
forth:

(c) The offer discloses that the plan of merger or the plan

(CODING: Words **stricken** are deletions; words **underlined** are additions.)
of share exchange provides that the merger or share exchange will be effected as soon as practicable following the satisfaction of the requirement in paragraph (f) and that the shares of the corporation that are not tendered in response to the offer will be treated pursuant to paragraph (h);

(d) The offer remains open for at least 10 days;

(e) The offeror purchases all shares properly tendered in response to the offer and not properly withdrawn;

(f) The shares listed below are collectively entitled to cast at least the minimum number of votes on the merger or share exchange that, absent this section, would be required by this chapter and by the articles of incorporation for the approval of the merger or share exchange by the shareholders and by each other voting group entitled to vote on the merger or share exchange at a meeting at which all shares entitled to vote on the approval were present and voted:

1. Shares purchased by the offeror in accordance with the offer;

2. Shares otherwise owned by the offeror or by any parent of the offeror or any wholly owned subsidiary of any of the foregoing; and

3. Shares subject to an agreement that they are to be transferred, contributed, or delivered to the offeror, any parent of the offeror, or any wholly owned subsidiary of any of the foregoing in exchange for shares or eligible interests in such offeror, parent, or subsidiary;

(g) The offeror or a wholly owned subsidiary of the offeror merges with or into, or effects a share exchange in which it acquires shares of, the corporation; and

(h) Each outstanding share of each class or series of shares of the corporation that the offeror is offering to purchase in accordance with the offer, and that is not purchased in accordance with the offer, is to be converted in the merger into, or into the right to receive, or is to be exchanged in the share exchange for, or for the right to receive, the same amount and kind of securities, eligible interests, obligations, rights, cash, other property, or any combination of the foregoing, to be paid or exchanged in accordance with the offer for each share of that class or series of shares that is tendered in response to the offer, except that shares of the corporation that are owned by the corporation or that are described in subparagraphs (f)2, or 3. need not be converted into or exchanged for the consideration described in this paragraph.

(2) As used in this section, the term:

(a) “Offer” means the offer referred to in paragraph (1) (b).

(b) “Offeror” means the person making the offer.

(c) “Parent” of an eligible entity means a person that owns, directly or indirectly through one or more wholly owned subsidiaries, all of the outstanding shares of or eligible interests in that eligible entity.

(d) Shares tendered in response to the offer shall be deemed to have been “purchased” in accordance with the terms of the offer at the earliest time as of which:

1. The offeror has irrevocably accepted those shares for payment; and

2. In the case of shares represented by certificates, the offeror, or the offeror’s designated depository or other agent,
(b)1. and (a)2. do not apply if it is a domestic or foreign eligible entity that owns shares of a domestic corporation which carry voting power at least 80 percent of the voting power of each class and series of the outstanding shares of the corporation. A subsidiary corporation may:

1. Merge the subsidiary into itself, if it is a domestic or foreign eligible entity, or into another domestic or foreign eligible entity in which the parent eligible entity owns at least 80 percent of the voting power of each class and series of the outstanding shares or eligible interests that have voting power; or

2. Merge itself, if it is a domestic or foreign eligible entity, into such a subsidiary.

(b) Merges under subparagraphs (a)1. and (a)2. do not require the approval of the board of directors or shareholders of the subsidiary unless the articles of incorporation or bylaws of the subsidiary otherwise provide. Section 607.1103(9) applies to a merger under this section. The articles of merger relating to a merger under this section do not need to be signed by the subsidiary, or may merge the subsidiary into and with another subsidiary in which the parent corporation owns at least 80 percent of the outstanding shares of each class of the subsidiary without the approval of the shareholders of the parent or subsidiary. In a merger of a parent corporation into its subsidiary corporation, the approval of the shareholders of the parent corporation shall be required if the articles of incorporation of the parent corporation before the merger, and any merger relating to a merger under this section do not need to be signed by the subsidiary, or may merge the subsidiary into and with another subsidiary in which the parent corporation owns at least 80 percent of the outstanding shares of each class of the subsidiary without the approval of the shareholders of the parent or subsidiary. In a merger of a parent corporation into its subsidiary corporation, the approval of the shareholders of the parent corporation shall be required if the articles of incorporation of the parent corporation before the merger, and any merger relating to a merger under this section do not need to be signed by the subsidiary, or may merge the subsidiary into and with another subsidiary in which the parent corporation owns at least 80 percent of the outstanding shares of each class of the subsidiary without the approval of the shareholders of the parent or subsidiary. In a merger of a parent corporation into its subsidiary corporation, the approval of the shareholders of the parent corporation shall be required if the articles of incorporation of the parent corporation before the merger, and any merger relating to a merger under this section do not need to be signed by the subsidiary, or may merge the subsidiary into and with another subsidiary in which the parent corporation owns at least 80 percent of the outstanding shares of each class of the subsidiary without the approval of the shareholders of the parent or subsidiary. In a merger of a parent corporation into its subsidiary corporation, the approval of the shareholders of the parent corporation shall be required if the articles of incorporation of the parent corporation before the merger, and any merger relating to a merger under this section do not need to be signed by the subsidiary, or may merge the subsidiary into and with another subsidiary in which the parent corporation owns at least 80 percent of the outstanding shares of each class of the subsidiary without the approval of the shareholders of the parent or subsidiary. In a merger of a parent corporation into its subsidiary corporation, the approval of the shareholders of the parent corporation shall be required if the articles of incorporation of the parent corporation before the merger, and any merger relating to a merger under this section do not need to be signed by the subsidiary, or may merge the subsidiary into and with another subsidiary in which the parent corporation owns at least 80 percent of the outstanding shares of each class of the subsidiary without the approval of the shareholders of the parent or subsidiary.
Articles of merger under this section may not contain:

(a) A clear and concise statement that shareholders of the subsidiary who, except for the applicability of this section, would be entitled to vote and who dissent from the merger, may not be entitled to vote and who dissent from the merger pursuant to s. 607.1103, unless expressly required by its articles of incorporation, no vote of shareholders of a corporation is necessary to authorize a merger of the corporation with or into a wholly owned subsidiary of such corporation if:

(a) Such corporation and wholly owned subsidiary are the only constituent corporations to the merger;

(b) Each share or fraction of a share of the constituent corporation whose shares are being converted pursuant to the merger which are outstanding immediately prior to the effective date of the merger is converted in the merger into a share or equal fraction of share of a holding company having the same designations, rights, powers and preferences, and qualifications, limitations and restrictions thereof as the

(c) One or more subsidiary corporations may be merged into the parent corporation pursuant to this section.

Section 136. Subsections (1) and (3) of section 607.11045, Florida Statutes, are amended to read:

607.11045 Holding company formation by merger by certain corporations.

(1) This section applies only to a corporation that has shares registered pursuant to s. 12 of the Securities Exchange Act of 1934 of any class or series which are either registered on a national securities exchange or designated as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc., or held of record by not fewer than 2,000 shareholders.

(3) Notwithstanding the requirements of s. 607.1103, unless expressly required by its articles of incorporation, no vote of shareholders of a corporation is necessary to authorize a merger of the corporation with or into a wholly owned subsidiary of such corporation if:

(a) Such corporation and wholly owned subsidiary are the only constituent corporations to the merger;

(b) Each share or fraction of a share of the constituent corporation whose shares are being converted pursuant to the merger which are outstanding immediately prior to the effective date of the merger is converted in the merger into a share or equal fraction of share of a holding company having the same designations, rights, powers and preferences, and qualifications, limitations and restrictions thereof as the

(c) Two or more subsidiary corporations may be merged into the parent corporation pursuant to this section.

Page 243 of 458

CODING: Words struck are deletions; words underlined are additions.
share of the constituent corporation being converted in the
merger;
(c) The holding company and each of the constituent
corporations to the merger are domestic corporations;
(d) The articles of incorporation and bylaws of the holding
company immediately following the effective date of the merger
contain provisions identical to the articles of incorporation
and bylaws of the constituent corporation whose shares are being
converted pursuant to the merger immediately prior to the
effective date of the merger, except provisions regarding the
incorporators, the corporate name, the registered office and
agent, the initial board of directors, the initial subscribers
for shares and matters solely of historical significance, and
such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange,
reclassification, or cancellation of shares, if such change,
exchange, reclassification, or cancellation has become
effective;
(e) As a result of the merger, the constituent corporation
whose shares are being converted pursuant to the merger or its
successor corporation becomes or remains a direct or indirect
wholly owned subsidiary of the holding company;
(f) The directors of the constituent corporation become or
remain the directors of the holding company upon the effective
date of the merger;
(g) The articles of incorporation of the surviving
corporation immediately following the effective date of the
merger are identical to the articles of incorporation of the
constituent corporation whose shares are being converted

CODING: Words underlined are deletions; words underlined are additions.
1. The names of the constituent corporations;
2. The manner and basis of converting the shares of the corporation into shares of the holding company and the manner and basis of converting rights to acquire shares of such corporation into rights to acquire shares of the holding company; and
3. A provision for the pro rata issuance of shares of the holding company to the holders of shares of the corporation upon surrender of any certificates therefor.

Section 137. Section 607.1105, Florida Statutes, is amended to read:

607.1105 Articles of merger or share exchange.—

(1) After a plan of merger has been adopted and approved as required by this chapter or, if the merger is being effected under s. 607.1101(1)(b), the merger has been approved as required by the organic law governing the parties to the merger, the articles of merger must be signed by each party to the merger, except as provided in s. 607.1104(1). The articles must or share exchange is approved by the shareholders, or adopted by the board of directors if shareholder approval is not required, the surviving or acquiring corporation shall deliver to the Department of State for filing articles of merger or share exchange which shall be executed by each corporation as required by s. 607.0120 and which shall set forth:

(a) The name, jurisdiction of formation, and type of entity of each party of the merger;

(b) If not already identified as the survivor pursuant to paragraph (a), the name, jurisdiction of formation, and type of entity of the survivor;

(c) If the survivor of the merger is a domestic corporation and its articles of incorporation are being amended, or if a new domestic corporation is being created as a result of the merger:

1. The amendments to the survivor’s articles of incorporation; or

2. The articles of incorporation of the new corporation;

(d) If the survivor of the merger is a domestic eligible entity, other than a domestic corporation, and its public organic record is being amended in connection with the merger, or if a new domestic eligible entity is being created as a result of the merger:

1. The amendments to the public organic record of the survivor; or

2. The public organic record of the new eligible entity;

(e) If the plan of merger required approval by the shareholders of a domestic corporation that is a party to the merger, a statement that the plan was duly approved by the shareholders and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of incorporation of such domestic corporation;

(f) If the plan of merger did not require approval by the shareholders of a domestic corporation that is a party to the merger, a statement to that effect;

(g) As to each foreign corporation that is a party to the merger, a statement that the participation of the foreign corporation was duly authorized in accordance with such corporation’s organic law;

(h) As to each domestic or foreign eligible entity that is
(4) The articles of merger or the articles of share exchange shall be delivered to the department for filing, and, subject to subsection (5), the merger or share exchange shall take effect at the effective date determined in accordance with s. 607.0123.

(5) With respect to a merger in which one or more foreign entities is a party or a foreign eligible entity created by the merger is the survivor, the merger itself shall become effective at the later of:

(a) When all documents required to be filed in all foreign jurisdictions to effect the merger have become effective; or

(b) When the articles of merger take effect.

(6) Articles of merger required to be filed under this section may be combined with any filing required under the organic law governing any other domestic eligible entity involved in the transaction if the combined filing satisfies the requirements of both this section and the other organic law plan of merger or share exchange.

(b) The effective date of the merger or share exchange, which may be on or after the date of filing the articles of merger or share exchange; if the articles of merger or share exchange do not provide for an effective date of the merger or share exchange, then the effective date shall be the date on which the articles of merger or share exchange are filed;

(c) If shareholder approval was not required, a statement to that effect; and

(d) To each corporation, to the extent applicable, the date of adoption of the plan of merger or share exchange by the shareholders or by the board of directors when no vote of the shareholders was required.

590-03467A-19

Page 249 of 458

CODING: Words [stricken] are deletions; words [underlined] are additions.
(d) All debts, obligations, and other liabilities of each domestic or foreign eligible entity that is a party to the merger, other than the surviving corporation, become debts, obligations, and other liabilities of the surviving corporation.

(e) The name of the survivor may be, but need not be, substituted in any pending proceeding for the name of any party to the merger whose separate existence ceased in the merger.

(f) Neither the rights of creditors nor any liens upon the property of any corporation party to the merger shall be impaired by such merger.

(g) If the survivor is a domestic eligible entity, the articles of incorporation and bylaws or the organic rules of the survivor shall be as provided in the plan of merger; and

(h) The articles of incorporation and bylaws or the organic rules of a survivor that is a domestic eligible entity and is created by the merger become effective.

(i) The shares (and the rights to acquire shares, obligations, or other securities) of each domestic or foreign corporation party to the merger, and the eligible interests in any other eligible entity that is a party to the merger, that are to be converted in accordance with the terms of the merger into shares or other securities, eligible interests, rights, obligations, rights to acquire shares, other securities, or...
(a) Shares or other securities;
A share exchange has no effect on interest holder liability. 7394

(d) A share exchange has no effect on interest holder liability. 7395

1. The merger or share exchange does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the merger or share exchange becomes effective.

2. The provisions of the organic law governing any eligible entity for which the person had that prior interest holder liability with respect to any interest holder liabilities preserved by subparagraph 1. as if the merger or share exchange had not occurred.

3. The person shall have such rights of contribution from other persons as are provided by the organic law governing the eligible entity for which the person had that prior interest holder liability with respect to any interest holder liabilities preserved by subparagraph 1. as if the merger or share exchange had not occurred.

4. The person shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that arise after the merger or share exchange becomes effective.

(c) If a person has interest holder liability both before and after a merger becomes effective with unchanged terms and conditions with respect to the eligible entity that is the survivor by reason of owning the same shares or eligible interests before and after the merger becomes effective, the merger has no effect on such interest holder liability.

(d) A share exchange has no effect on interest holder liability related to shares or eligible interests of the acquired eligible entity that were not exchanged in the share exchange.

(4) Upon a merger becoming effective, a foreign eligible entity that is the survivor of the merger is deemed to:

(a) Appoint the secretary of state as its agent for service of process in a proceeding to enforce the rights of shareholders of each domestic corporation that is a party to the merger who exercise appraisal rights; and

(b) Agree that it will promptly pay any amount that the shareholders are entitled to under ss. 607.1301-607.1346.

(5) Except as provided in the organic law governing a party to a merger or in its articles of incorporation or organic rules, the merger does not give rise to any rights that an interest holder, governor, or third party would have upon a dissolution, liquidation, or winding up of that party. The merger does not require a party to the merger to wind up its affairs and does not constitute or cause its dissolution or termination.

(6) Property held for a charitable purpose under the law of this state by a domestic or foreign eligible entity immediately before a merger becomes effective may not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred except and only to the extent permitted by or pursuant to the laws of this state addressing cy pres or dealing with nondiversion of charitable assets.

(7) A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or
Section 139. Section 607.1107, Florida Statutes, is amended to read:

607.1107 Abandonment of a merger or share exchange
Mergers or share exchanges with foreign corporations —
(1) After a plan of merger or a plan of share exchange has been adopted and approved as required by this chapter, and before the articles of merger or the articles of share exchange have become effective, the plan may be abandoned by a domestic corporation that is a party to the plan without action by the shareholders in accordance with any procedures set forth in the plan of merger or the plan of share exchange or, if no such procedures are set forth in the plan, in the manner determined by the board of directors.

(2) If a merger or share exchange is abandoned under subsection (1) after articles of merger or articles of share exchange have been delivered to the department for filing but before the articles of merger or articles of share exchange have become effective, a statement of abandonment signed by all the parties that signed the articles of merger or articles of share exchange must be delivered to the department for filing before the articles of merger or articles of share exchange become effective. The statement shall take effect on filing, whereupon the merger or share exchange shall be deemed abandoned and shall not become effective. The statement of abandonment must contain:

(a) The name of each party to the merger or the name of the acquiring and acquired entities in a share exchange;

(b) The date on which the articles of merger or articles of share exchange were filed by the department; and

(c) A statement that the merger or share exchange has been abandoned in accordance with this section. One or more foreign corporations may merge or enter into a share exchange with one or more domestic corporations if:

(1) The foreign corporation complies with s. 607.1105 if it is the surviving corporation of the merger or acquiring corporation of the share exchange; and

(2) Each domestic corporation complies with the applicable provisions of s. 607.1101-607.1104 and, if it is the surviving corporation of the merger or acquiring corporation of the share exchange, with s. 607.1105.

(3) Upon the merger becoming effective, the surviving foreign corporation of a merger, and the acquiring foreign corporation in a share exchange, is deemed:
(a) To appoint the Secretary of State as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders of each domestic corporation party to the merger or share exchange; and

(b) To agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger or share exchange the amount, if any, to which they are entitled under s. 607.1302.

(3) This section does not limit the power of a foreign corporation to acquire all or part of the shares of one or more classes or series of a domestic corporation through a voluntary exchange or otherwise.

(4) The effect of such merger shall be the same as in the case of the merger of domestic corporations if the surviving corporation is to be governed by the laws of this state. If the surviving corporation is to be governed by the laws of any state other than this state, the effect of such merger shall be the same as in the case of the merger of domestic corporations except insofar as the laws of such other state provide otherwise.

(5) The redomestication of a foreign insurer to this state under s. 628.520 shall be deemed a merger of a foreign corporation and a domestic corporation, and the surviving corporation shall be deemed to be a domestic corporation incorporated under the laws of this state. The redomestication of a Florida corporation to a foreign jurisdiction under s. 628.520 shall be deemed a merger of a domestic corporation and a foreign corporation, and the surviving corporation shall be deemed to be a foreign corporation.

**CODING:** Words stricken are deletions; words underlined are additions.

---

Section 140. Section 607.1108, Florida Statutes, is repealed.

Section 141. Section 607.1109, Florida Statutes, is repealed.

Section 142. Section 607.11101, Florida Statutes, is repealed.

Section 143. Section 607.11112, Florida Statutes, is repealed.

Section 144. Section 607.1113, Florida Statutes, is repealed.

Section 145. Section 607.1114, Florida Statutes, is repealed.

Section 146. Section 607.1115, Florida Statutes, is repealed.

Section 147. Section 607.11920, Florida Statutes, is created to read:

607.11920 Domestication.—

(1) By complying with this section and ss. 607.11921-607.11924, as applicable, a foreign corporation may become a domestic corporation if the domestication is permitted by the organic law of the foreign corporation.

(2) By complying with this section and ss. 607.11921-607.11924, as applicable, a domestic corporation may become a foreign corporation pursuant to a plan of domestication if the domestication is permitted by the organic law of the foreign corporation.

(3) In a domestication under subsection (2), the domestating eligible entity must enter into a plan of domestication. The plan of domestication must include:

**CODING:** Words stricken are deletions; words underlined are additions.
(a) The name of the domesticating corporation;

(b) The name and jurisdiction of formation of the domesticating corporation;

(c) The manner and basis of reclassifying the shares of the domesticating corporation into shares or other securities, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing;

(d) The proposed organic rules of the domesticated corporation which must be in writing; and

(e) The other terms and conditions of the domestication.

(4) In addition to the requirements of subsection (3), a plan of domestication may contain any other provision not prohibited by law.

(5) The terms of a plan of domestication may be made dependent upon facts objectively ascertainable outside the plan in accordance with s. 607.0120(11).

(6) If a protected agreement of a domesticating corporation in effect immediately before the domestication becomes effective contains a provision applying to a merger of the corporation and the agreement does not refer to a domestication of the corporation, the provision applies to a domestication of the corporation as if the domestication were a merger until such time as the provision is first amended after January 1, 2020.

Section 148. Section 607.11921, Florida Statutes, is created to read:

607.11921 Action on a plan of domestication.—In the case of a domestication of a domestic corporation into a foreign jurisdiction, the plan of domestication shall be adopted in the following manner:

1. The board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation; or

2. Section 607.0826 applies.

(c) If either subparagraph (b)1. or subparagraph (b)2. applies, the board shall inform the shareholders of the basis for its so proceeding without such recommendation.

(3) The board of directors may set conditions for approval of the plan of domestication by the shareholders or the effectiveness of the plan of domestication.

(4) If the plan of domestication is required to be approved by the shareholders, and if the approval of the shareholders is to be given at a meeting, the corporation must notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the plan of domestication is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the plan of domestication and must contain or be accompanied by a copy of the plan. The notice must include or be accompanied by a written copy of the organic rules of the domesticated eligible entity as they will be in effect immediately after the domestication.
(5) Unless the articles of incorporation, or the board of
directors acting pursuant to subsection (3), require a greater
vote or a greater quorum in the respective case, approval of the
plan of domestication requires:
   (a) The approval of the shareholders at a meeting at which
a quorum exists consisting of a majority of the votes entitled
to be cast on the plan; and
   (b) Except as provided in subsection (6), the approval of
each class or series of shares voting as a separate voting group
at a meeting at which a quorum of the voting group exists
consisting of a majority of the votes entitled to be cast on the
plan by that voting group.
(6) The articles of incorporation may expressly limit or
eliminate the separate voting rights provided in paragraph
(5)(b) as to any class or series of shares, except when the
public organic rules of the foreign corporation resulting from
the domestication include what would be in effect an amendment
that would entitle the class or series to vote as a separate
group under s. 607.1004 if it were a proposed amendment of the
articles of incorporation of a domesticating

corporation.
(7) If as a result of a domestication one or more
shareholders of a domesticating domesticating corporation would
become subject to interest holder liability, approval of the
plan of domestication shall require the signing in connection
with the domestication, by each such shareholder, of a separate
written consent to become subject to such interest holder
liability, unless in the case of a shareholder that already has
interest holder liability with respect to the domesticating
A plan of domestication of a domestic corporation must be attached to the articles of domestication. Provisions that would not be required to be included in restated articles of incorporation may be omitted from the articles of incorporation attached to the articles of domestication.

(4) The articles of domestication shall be delivered to the department for filing and shall take effect at the effective date determined in accordance with ss. 607.0123.

(5)(a) If the domesticated corporation is a domestic corporation, the domestication becomes effective when the articles of domestication are effective.

(b) If the domesticated corporation is a foreign corporation, the domestication becomes effective on the later of the date and time provided by the organic law of the domesticated corporation or when the articles of domestication are effective.

(6) If the domesticating corporation is a foreign corporation that is qualified to transact business in this state under ss. 607.1501-607.1532, its certificate of authority is automatically canceled when the domestication becomes effective.

(7) A copy of the articles of domestication, certified by the department, may be filed in the official records of any county in this state in which the domesticating eligible entity holds an interest in real property.

Section 150. Section 607.11923, Florida Statutes, is created to read:

607.11923 Amendment of a plan of domestication; abandonment.—

(1) A plan of domestication of a domestic corporation that satisfy the requirements of s. 607.0202 must be adopted under s. 607.11920(3) may be amended:

(a) In the same manner as the plan of domestication was approved, if the plan does not provide for the manner in which it may be amended; or

(b) In the manner provided in the plan of domestication, except that a shareholder that was entitled to vote on or consent to approval of the plan is entitled to vote on or consent to any amendment of the plan that will change:

1. The amount or kind of shares or other securities, obligations, rights to acquire shares, other securities, or eligible interests, cash, other property, or any combination of the foregoing, to be received by any of the shareholders or holders of rights to acquire shares, other securities, or eligible interests of the domesticating corporation under the plan;

2. The organic rules of the domesticated corporation that are to be in writing and that will be in effect immediately after the domestication becomes effective, except for changes that do not require approval of the shareholders of the domesticated corporation under its organic rules as set forth in the plan of domestication; or

3. Any of the other terms or conditions of the plan, if the change would adversely affect the shareholder in any material respect;

(2) After a plan of domestication has been adopted and approved by a domestic corporation as required by this chapter, and before the articles of domestication have become effective, the plan may be abandoned by the corporation without action by its shareholders in accordance with any procedures set forth in...
The plan or, if no such procedures are set forth in the plan, in the manner determined by the board of directors of the domestic corporation.

(3) If a domestication is abandoned after the articles of domestication have been delivered to the department for filing but before the articles of domestication have become effective, a statement of abandonment signed by the domesricating corporation must be delivered to the department for filing before the articles of domestication become effective. The statement shall take effect upon filing, and the domestication shall be deemed abandoned and shall not become effective. The statement of abandonment must contain:

(a) The name of the domesticating corporation;
(b) The date on which the articles of domestication were filed by the department; and
(c) A statement that the domestication has been abandoned in accordance with this section.

Section 151. Section 607.11924, Florida Statutes, is created to read:

607.11924 Effect of domestication.—
(1) When a domestication becomes effective:

(a) All real property and other property owned by the domesticating corporation, including any interests therein and all title thereto, and every contract right possessed by the domesticating corporation, are the property and contract rights of the domesticated corporation without transfer, reversion, or impairment;
(b) All debts, obligations, and other liabilities of the domesticating corporation are the debts, obligations, and other liabilities of the domesticated corporation; and
(c) The name of the domesticated corporation may be, but need not be, substituted for the name of the domesticating corporation in any pending proceeding;
(d) The organic rules of the domesticated corporation become effective;
(e) The shares or equity interests of the domesticating corporation are reclassified into shares or other securities, obligations, rights to acquire shares or other securities, cash, or other property in accordance with the terms of the domestication, and the shareholders or equity owners of the domesticating corporation are entitled only to the rights provided to them by those terms and to any appraisal rights they may have under the organic law of the domesticating corporation; and
(f) The domesticated corporation is:

1. Incorporated under and subject to the organic law of the domesticated corporation;
2. The same corporation, without interruption, as the domesticating corporation; and
3. Deemed to have been incorporated or formed on the date the domesticating corporation was originally incorporated.

(2) In addition, when a domestication of a domesticating corporation into a foreign jurisdiction becomes effective, the domesticated corporation is deemed to:

(a) Appoint the secretary of state as its agent for service of process in a proceeding to enforce the rights of shareholders who exercise appraisal rights in connection with the domestication; and
(b) Agree that it will promptly pay any amount that the shareholders are entitled to under ss. 607.1301-607.1340.

(3) Except as otherwise provided in the organic law or organic rules of a domesticating foreign corporation, the interest holder liability of a shareholder or equity holder in a foreign corporation that is domesticated into this state who had interest holder liability in respect of such domesticating corporation before the domestication becomes effective shall be as follows:

(a) The domestication does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the domestication becomes effective.

(b) The provisions of the organic law of the domesticating corporation shall continue to apply to the collection or discharge of any interest holder liabilities preserved by paragraph (a), as if the domestication had not occurred.

(c) The shareholder or equity holder shall have such rights of contribution from other persons as are provided by the organic law of the domesticating corporation with respect to any interest holder liabilities preserved by paragraph (a), as if the domestication had not occurred.

(d) The shareholder or equity holder may not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that are incurred after the domestication becomes effective.

(4) A shareholder or equity holder who becomes subject to interest holder liability in respect of the domesticated corporation as a result of the domestication shall have such

interest holder liability only in respect of interest holder liabilities that arise after the domestication becomes effective.

(5) A domestication does not constitute or cause the dissolution of the domesticating corporation.

(6) Property held for charitable purposes under the laws of this state by a domestic or foreign corporation immediately before a domestication becomes effective may not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred except and to the extent permitted by or pursuant to the laws of this state addressing cy pres or dealing with nondiversion of charitable assets.

(7) A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance which is made to the domesticating corporation and which takes effect or remains payable after the domestication inures to the domesticated corporation.

(8) A trust obligation that would govern property if transferred to the domesticating corporation applies to property that is transferred to the domesticated corporation after the domestication takes effect.

Section 152. Section 607.11930, Florida Statutes, is created to read:

607.11930 Conversion.—

(1) By complying with this chapter, including adopting a plan of conversion in accordance with s. 607.11931 and complying with s. 607.11932, a domestic corporation may become:

(a) A domestic eligible entity, other than a domestic
corporation;
(b) If the conversion is permitted by the organic law of the foreign eligible entity, a foreign eligible entity.
(2) By complying with this section and ss. 607.11931–
607.11935, as applicable, and applicable provisions of its organic law, a domestic eligible entity other than a domestic conversion may become a domestic corporation.
(3) By complying with this section and ss. 607.11931–
607.11935, as applicable, and by complying with the applicable provisions of its organic law, a foreign eligible entity may become a domestic corporation, but only if the organic law of the foreign eligible entity permits it to become a corporation in another jurisdiction.
(4) If a protected agreement of a domestic converting eligible entity in effect immediately before the conversion becomes effective contains a provision applying to a merger of the corporation that is a converting eligible entity and the agreement does not refer to a conversion of the corporation, the provision applies to a conversion of the corporation as if the conversion were a merger, until such time as the provision is first amended after January 1, 2020.
Section 153. Section 607.11931, Florida Statutes, is created to read:
607.11931 Plan of conversion.—
(1) A domestic corporation may convert to a domestic or foreign eligible entity under this chapter by approving a plan of conversion. The plan of conversion must include:
(a) The name of the domestic converting corporation;
(b) The name, jurisdiction of formation, and type of entity

(c) The manner and basis of converting the shares of the domestic corporation, or the rights to acquire shares, obligations or other securities, of the domestic corporation into:
1. Shares.
2. Other securities.
3. Eligible interests.
4. Obligations.
5. Rights to acquire shares, other securities, or eligible interests.
6. Cash.
7. Other property.
8. Any combination of the foregoing;
(d) The other terms and conditions of the conversion; and
(e) The full text, as it will be in effect immediately after the conversion becomes effective, of the organic rules of the converted eligible entity which are to be in writing.
(2) In addition to the requirements of subsection (1), a plan of conversion may contain any other provision not prohibited by law.
(3) The terms of a plan of conversion may be made dependent upon facts objectively ascertainable outside the plan in accordance with section 607.0120(11).
Section 154. Section 607.11932, Florida Statutes, is created to read:
607.11932 Action on a plan of conversion.—In the case of a conversion of a domestic corporation to a domestic or foreign eligible entity other than a domestic corporation, the plan of

CODING: Words **stricken** are deletions; words ___underlined___ are additions.
conversion must be adopted in the following manner:

(1) The plan of conversion must first be adopted by the
board of directors of such domestic corporation.

(2)(a) The plan of conversion shall then be approved by the
shareholders of such domestic corporation.

(b) In submitting the plan of conversion to the
shareholders for their approval, the board of directors shall
recommend that the shareholders approve the plan of conversion
unless:

1. The board of directors makes a determination that
because of conflicts of interest or other special circumstances
it should not make such a recommendation; or

2. Section 607.0826 applies.

(c) If either subparagraph (b)1. or subparagraph (b)2.
applies, the board of directors shall inform the shareholders of
the basis for its so proceeding without such recommendation.

(3) The board of directors may set conditions for approval
of the plan of conversion by the shareholders or the
effectiveness of the plan of conversion.

(4) If a plan of conversion is required to be approved by
the shareholders, and if the approval is to be given at a
meeting, the corporation shall notify each shareholder,
regardless of whether entitled to vote, of the meeting of
shareholders at which the plan is to be submitted for approval,
in accordance with s. 607.0705. The notice must state that the
purpose, or one of the purposes, of the meeting is to consider
the plan of conversion and must contain or be accompanied by a
copy of the plan. The notice must include or be accompanied by a
written copy of the organic rules of the converted eligible
entity as they will be in effect immediately after the
conversion.

(5) Unless the articles of incorporation, or the board of
directors acting pursuant to subsection (3), require a greater
vote or a greater quorum in the respective case, approval of the
plan of conversion requires:

(a) The approval of the shareholders at a meeting at which
a quorum exists consisting of a majority of the votes entitled
to be cast on the plan; and

(b) The approval of each class or series of shares voting
as a separate voting group at a meeting at which a quorum of the
voting group exists consisting of a majority of the votes
entitled to be cast on the plan by that voting group.

(6) If as a result of the conversion one or more
shareholders of the converting domestic corporation would become
subject to interest holder liability, approval of the plan of
conversion shall require the signing in connection with the
transaction, by each such shareholder, of a separate written
consent to become subject to such interest holder liability.

(7) If the converted eligible entity is a partnership or
limited partnership, no shareholder of the converting domestic
corporation shall, as a result of the conversion, become a
general partner of the partnership or limited partnership,
unless such shareholder specifically consents in writing to
becoming a partner of such partnership or limited
partnership and, unless such written consent is obtained from
each such shareholder, such conversion may not become effective
under s. 607.1193. Any shareholder providing such consent in
writing shall be deemed to have voted in favor of the plan of
conversion. 
(8) Sections 607.1301-607.1340 shall, insofar as they are applicable, apply to a conversion in accordance with this chapter of a domestic corporation into a domestic or foreign eligible entity that is not a domestic corporation.

Section 155. Section 607.11933, Florida Statutes, is created to read:

607.11933 Articles of conversion; effectiveness.—

(1) After a plan of conversion of a domestic corporation has been adopted and approved as required by this chapter, or a domestic or foreign eligible entity, other than a domestic corporation, that is the converting eligible entity has approved a conversion as required by its organic law, articles of conversion must be signed by the converting eligible entity as required by s. 607.0120 and must:

(a) State the name, jurisdiction of formation, and type of entity of the converting eligible entity;

(b) State the name, jurisdiction of formation, and type of entity of the converted eligible entity;

(c) If the converting eligible entity is:

1. A domestic corporation, state that the plan of conversion was approved in accordance with this chapter; or

2. A domestic or foreign eligible entity other than a domestic corporation, state that the conversion was approved by the eligible entity in accordance with its organic law; and

(d) If the converted eligible entity is;

1. A domestic corporation or a domestic or foreign eligible entity that is not a domestic corporation, attach the public

CREDIT: Words underlined are additions.
590-03467A-19 2019892c2

organic law of a domestic eligible entity that is the converting eligible entity or the converted eligible entity if the combined filing satisfies the requirements of both this section and the other organic law.

(6) If the converting eligible entity is a foreign eligible entity that is authorized to transact business in this state under a provision of law similar to ss. 607.1501-607.1532, its foreign qualification shall be canceled automatically on the effective date of its conversion.

(7) A copy of the articles of conversion, certified by the department, may be filed in the official records of any county in this state in which the converting eligible entity holds an interest in real property.

Section 156. Section 607.11934, Florida Statutes, is created to read:

607.11934 Amendment to a plan of conversion; abandonment.—

(1) A plan of conversion of a converting eligible entity that is a domestic corporation may be amended:

(a) In the same manner as the plan of conversion was approved, if the plan does not provide for the manner in which it may be amended; or

(b) In the manner provided in the plan of conversion, except that shareholders that were entitled to vote on or consent to approval of the plan are entitled to vote on or consent to any amendment of the plan that will change:

1. The amount or kind of shares or other securities, eligible interests, obligations, rights to acquire shares, other securities, or eligible interests, cash, other property, or any combination of the foregoing, to be received by any of the shareholders of the converting corporation under the plan;

2. The organic rules of the converted eligible entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the eligible interest holders of the converted eligible entity under its organic law or organic rules; or

3. Any other terms or conditions of the plan, if the change would adversely affect such shareholders in any material respect.

(2) After a plan of conversion has been adopted and approved by a converting eligible entity that is a domestic corporation in the manner required by this chapter and before the articles of conversion become effective, the plan may be abandoned by the domestic corporation without action by its shareholders in accordance with any procedures set forth in the plan or, if no such procedures are set forth in the plan, in the manner determined by the board of directors of the domestic corporation.

(3) If a conversion is abandoned after the articles of conversion have been delivered to the department for filing but before the articles of conversion have become effective, a statement of abandonment signed by the converting eligible entity must be delivered to the department for filing before the articles of conversion become effective. The statement shall take effect on filing, and the conversion shall be deemed abandoned and shall not become effective. The statement of abandonment must contain:

(a) The name of the converting eligible entity;

(b) The date on which the articles of conversion were filed...
The shares, rights to acquire shares, eligible interests, other securities and obligations of the converting eligible entity remain the property and contract rights of the converting eligible entity; and

(c) The name of the converted eligible entity may be, but need not be, substituted for the name of the converting eligible entity in any pending action or proceeding;

(d) If the converted eligible entity is a filing entity, a domestic corporation, or a domestic or foreign nonprofit corporation, its public organic record and its private organic rules become effective;

(e) If the converted eligible entity is a nonfiling entity, its private organic rules become effective;

(f) If the converted eligible entity is a limited liability partnership, the filing required to become a limited liability partnership and its private organic rules become effective;

(g) The shares, rights to acquire shares, eligible interests, other securities and obligations of the converting eligible entity are reclassified into shares, other securities, eligible rights to acquire shares or other securities, eligible interests, obligations, cash, other property, or any combination thereof, in accordance with the terms of the conversion, and the shareholders or interest holders of the converting eligible entity are entitled only to the rights provided to them by those terms and to any rights they may have under s. 607.1302 or under the organic law of the converting eligible entity; and

(h) The converted eligible entity is:

1. Deemed to be incorporated or organized under and subject to the organic law of the converted eligible entity;

2. Deemed to be the same entity without interruption as the converting eligible entity; and

3. Deemed to have been incorporated or otherwise organized on the date that the converting eligible entity was originally incorporated or organized.

(2) When a conversion of a domestic corporation to a domestic or foreign eligible entity other than a domestic corporation becomes effective, the converted eligible entity is deemed to:

(a) Appoint the secretary of state as its agent for service of process in a proceeding to enforce the rights of shareholders who exercise appraisal rights in connection with the conversion; and

(b) Agree that it will promptly pay any amount that shareholders are entitled to under ss. 607.1301-607.1340.

(3) Except as otherwise provided in the articles of incorporation of a domestic corporation or the organic law or organic rules of a domestic or foreign eligible entity other...
590-03467A-19 2019892c2

than a domestic corporation, a shareholder or eligible interest holder who becomes subject to interest holder liability in respect of a domestic corporation or domestic or foreign eligible entity other than a domestic corporation as a result of the conversion shall have such interest holder liability only in respect of interest holder liabilities that arise after the conversion becomes effective.

(4) Except as otherwise provided in the organic law or the organic rules of the domestic or foreign eligible entity, the interest holder liability of an interest holder in a converting eligible entity that converts to a domestic corporation who had interest holder liability in respect of such converting eligible entity before the conversion becomes effective shall be as follows:

(a) The conversion does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the conversion became effective.

(b) The provisions of the organic law of the eligible entity shall continue to apply to the collection or discharge of any interest holder liabilities preserved by paragraph (a), as if the conversion had not occurred.

(c) The eligible interest holder shall have such rights of contribution from other persons as are provided by the organic law of the eligible entity with respect to any interest holder liabilities preserved by paragraph (a), as if the conversion had not occurred.

(d) The eligible interest holder may not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that arise after the conversion becomes effective.

The eligible interest holder shall have such rights of contribution from other persons as are provided by the organic law of the eligible entity with respect to any interest holder liabilities preserved by paragraph (a), as if the conversion had not occurred.

A trust obligation that would govern property if transferred to the converting eligible entity applies to property that is to be transferred to the converted eligible entity after the conversion becomes effective.

Section 158. Section 607.1201, Florida Statutes, is amended to read:

607.1201 Disposition of assets not requiring shareholder approval
sale of assets in regular course of business and mortgage of assets—Unless the articles of incorporation otherwise provide, no approval by shareholders is required to:

(1) A corporation may, on the terms and conditions and for the consideration determined by the board of directors:

...
§ 8208 Shareholders of record approve the proposed transaction.

§ 8209 (2) (a) To obtain the approval of the shareholders under subsection (1), the board of directors must first adopt a resolution approving the disposition, and thereafter, the disposition must also be approved by the corporation’s shareholders.

§ 8210 (b) In submitting the disposition to the shareholders for approval, the board of directors must recommend the proposed transaction to the shareholders of record unless:

1. The board of directors makes a determination that it should make no recommendation because of a conflict of interest or other special circumstances it should not make such a recommendation; or

2. Section 607.0826 applies.

§ 8211 (c) If either subparagraph (b)1. or subparagraph (b)2. applies, the board of directors shall inform the shareholders of the basis for its decision to proceed without such recommendation and communicates the basis for its determination to the shareholders of record with the submission of the proposed transaction; and

§ 8212 (4) The shareholders entitled to vote must approve the transaction as provided in subsection (5).

§ 8213 (5) The board of directors may set conditions for approval of the disposition or the effectiveness of the disposition condition its submission of the proposed transaction on any basis.

§ 8214 (4) If the disposition is required to be approved by the shareholders under subsection (1) and if the approval is to be given at the meeting, the corporation shall notify each
... by ss. 607.1401-607.14401. Any plan or agreement providing for a sale, lease, exchange, or other disposition of assets in the course of dissolution that constitutes a distribution is governed by ss. 607.06401 and not...
(5) “Corporation” means the domestic corporation that is a member or a beneficiary of any member or a beneficiary of any member of the surviving entity in a conversion, a domestication, the covered eligible entity in a conversion, and the survivor of surviving entity in a merger.

(6)(a) “Interested person” means a person, or an affiliate of a person, who at any time during the 1-year period immediately preceding the date of the transaction requiring appraisal, excluding any person, or an affiliate of a person, that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another person or is a senior executive of such person thereat. For purposes of paragraph (a) of this subsection, a person is deemed to be an affiliate of its senior executives.

(b) “Affiliate” means a person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another person or is a senior executive of such person thereat. For purposes of paragraph (a) of this subsection, a person is deemed to be an affiliate of its senior executives.

(c) “Corporate action” means an event described in s. 607.1302(1).

(d) “Corporation” means the domestic corporation that is a member or a beneficiary of any member or a beneficiary of any member of the surviving entity in a conversion, a domestication, the covered eligible entity in a conversion, and the survivor of surviving entity in a merger.

(e) “Accrued interest” means interest from the date the corporate action becomes effective until the date of payment, at the rate of interest determined for judgments pursuant to s. 55.03, determined as of the effective date of the corporate action.

(f) “Fair value” means the value of the corporation’s shares determined:

1. Immediately before the effectiveness of the corporate action to which the shareholder objects.
2. Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable to the corporation and its remaining shareholders.
3. For a corporation with 10 or fewer shareholders, without discounting for lack of marketability or minority status.
4. “Interest” means interest from the effective date of the corporate action until the date of payment, at the rate of interest on judgments in this state on the effective date of the corporate action.
5. “Interested transaction” means a corporate action described in s. 607.1302(1), other than a merger pursuant to s. 607.1104, involving an interested person in which any of the shares or assets of the corporation are being acquired or converted.
6. “Shareholder” means a person who is the beneficial owner of shares held in a voting trust or by a nominee on the beneficial owner’s behalf.

For purposes of this section, the term “shareholder” includes a beneficial shareholder and a voting trust beneficial owner.
preceding approval by the board of directors of the corporate action:
1. Was the beneficial owner of 20 percent or more of the voting power of the corporation, other than as owner of excluded shares;
2. Had the power, contractually or otherwise, other than as owner of excluded shares, to cause the appointment or election of 25 percent or more of the directors to the board of directors of the corporation; or
3. Was a senior executive or director of the corporation or a senior executive of any affiliate of the corporation, and will receive, as a result of the corporate action, a financial benefit not generally available to other shareholders as such, other than:
   a. Employment, consulting, retirement, or similar benefits established separately and not as part of or in contemplation of the corporate action;
   b. Employment, consulting, retirement, or similar benefits established in contemplation of, or as part of, the corporate action that are not more favorable than those existing before the corporate action or, if more favorable, that have been approved on behalf of the corporation in the same manner as is provided in s. 607.0832; or
   c. In the case of a director of the corporation who, in the corporate action, will become a director or governor of the acquirer or any of its affiliates in the corporate action, rights and benefits as a director or governor that are provided on the same basis as those afforded by the acquirer generally to other directors or governors of such entity or such affiliate.

(b) "Beneficial owner" means any person who, directly or indirectly, through any contract, arrangement, or understanding, other than a revocable proxy, has or shares the power to vote, or to direct the voting of, shares; except that a member of a national securities exchange is not deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person if the member is precluded by the rules of the exchange from voting without instruction on contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted. When two or more persons agree to act together for the purpose of voting their shares of the corporation, each member of the group formed thereby is deemed to have acquired beneficial ownership, as of the date of the agreement, of all shares having voting power of the corporation beneficially owned by any member of the group.

(c) "Excluded shares" means shares acquired pursuant to an offer for all shares having voting power if the offer was made within 1 year before the corporate action for consideration of the same kind and of a value equal to or less than that paid in connection with the corporate action.

(7) "Preferred shares" means a class or series of shares the holders of which have preference over any other class or series of shares with respect to distributions.

(8) "Senior executive" means the chief executive officer, chief operating officer, chief financial officer, or any...
2. If such corporation is a subsidiary and the merger is
consummated or substantially
altered; and the shareholder is entitled to vote on the merger
or

(1) A shareholder of a domestic corporation is entitled to
appraisal rights, and to obtain payment of the fair value of
that shareholder’s shares, in the event of any of the following
corporate actions:
(a) Consummation of a domestication or a conversion of such
corporation pursuant to s. 607.11921 or s. 607.11932, as
applicable, if shareholder approval is required for
the domestication or the conversion; and the shareholder is
entitled to vote on the conversion under ss. 607.1103 and
607.1112(6), or the
(b) Consummation of a merger to which such corporation is a
party:
1. If shareholder approval is required for the merger under
s. 607.1103 or would be required but for s. 607.11035, except
that appraisal rights shall not be available to any shareholder
of the corporation with respect to shares of any class or series
that remains outstanding after consummation of the merger where
the terms of such class or series have not been materially
altered; and the shareholder is entitled to vote on the merger
or
2. If such corporation is a subsidiary and the merger is
consummated or substantially
altered; and the shareholder is entitled to vote on the merger
or
An amendment of the articles of incorporation with
respect to a class or series of shares which reduces the
number of shares of a class or series owned by the shareholder

Consummation of a share exchange to which the
corporation is a party as the corporation whose shares will be
acquired if the shareholder is entitled to vote on the exchange,
except that appraisal rights are not available to any
shareholder of the corporation with respect to any class or
series of shares of the corporation that is not acquired in the
share exchange exchanged;
Consummation of a disposition of assets pursuant to
s. 607.1202 if the shareholder is entitled to vote on the
disposition, including a sale in dissolution, except that
appraisal rights shall not be available to any shareholder of
the corporation with respect to shares or any class or series
if:
1. Under the terms of the corporate action approved by the
shareholders there is to be distributed to shareholders in cash
the corporation’s net assets, in excess of a reasonable amount
reserved to meet claims of the type described in ss. 607.1406
and 607.1407, within 1 year after the shareholders’ approval of
the action and in accordance with their respective interests
determined at the time of distribution; and
2. The disposition of assets is not an interested
transaction but including a sale pursuant to court order or
a sale for cash pursuant to a plan by which all or substantially
all of the net proceeds of the sale will be distributed to the
shareholders within 1 year after the date of sale;
An amendment of the articles of incorporation with
respect to a class or series of shares which reduces the
number of shares of a class or series owned by the shareholder

Consummation of a share exchange to which the
corporation is a party as the corporation whose shares will be
acquired if the shareholder is entitled to vote on the exchange,
except that appraisal rights are not available to any
shareholder of the corporation with respect to any class or
series of shares of the corporation that is not acquired in the
share exchange exchanged;
Consummation of a disposition of assets pursuant to
s. 607.1202 if the shareholder is entitled to vote on the
disposition, including a sale in dissolution, except that
appraisal rights shall not be available to any shareholder of
the corporation with respect to shares or any class or series
if:
1. Under the terms of the corporate action approved by the
shareholders there is to be distributed to shareholders in cash
the corporation’s net assets, in excess of a reasonable amount
reserved to meet claims of the type described in ss. 607.1406
and 607.1407, within 1 year after the shareholders’ approval of
the action and in accordance with their respective interests
determined at the time of distribution; and
2. The disposition of assets is not an interested
transaction but including a sale pursuant to court order or
a sale for cash pursuant to a plan by which all or substantially
all of the net proceeds of the sale will be distributed to the
shareholders within 1 year after the date of sale;
An amendment of the articles of incorporation with
respect to a class or series of shares which reduces the
number of shares of a class or series owned by the shareholder

Consummation of a share exchange to which the
corporation is a party as the corporation whose shares will be
acquired if the shareholder is entitled to vote on the exchange,
except that appraisal rights are not available to any
shareholder of the corporation with respect to any class or
series of shares of the corporation that is not acquired in the
share exchange exchanged;
Consummation of a disposition of assets pursuant to
s. 607.1202 if the shareholder is entitled to vote on the
disposition, including a sale in dissolution, except that
appraisal rights shall not be available to any shareholder of
the corporation with respect to shares or any class or series
if:
1. Under the terms of the corporate action approved by the
shareholders there is to be distributed to shareholders in cash
the corporation’s net assets, in excess of a reasonable amount
reserved to meet claims of the type described in ss. 607.1406
and 607.1407, within 1 year after the shareholders’ approval of
the action and in accordance with their respective interests
determined at the time of distribution; and
2. The disposition of assets is not an interested
transaction but including a sale pursuant to court order or
a sale for cash pursuant to a plan by which all or substantially
all of the net proceeds of the sale will be distributed to the
shareholders within 1 year after the date of sale;
Any other amendment to the articles of incorporation, merger, share exchange, or disposition of assets, or amendment to the articles of incorporation, in each case to the extent provided by the articles of incorporation, bylaws, or a resolution of the board of directors, except that no bylaw or board resolution providing for appraisal rights may be amended or otherwise altered except by shareholder approval.

(g) An amendment to the articles of incorporation or bylaws of the corporation, the effect of which is to alter or abolish voting or other rights with respect to such interest in a manner that is adverse to the interest of such shareholder, except as the right may be affected by the voting or other rights of new shares then being authorized of a new class or series of shares;

(h) An amendment to the articles of incorporation or bylaws of a corporation the effect of which is to adversely affect the interest of the shareholder by altering or abolishing appraisal rights under this section;

(i) With regard to a class of shares prescribed in the articles of incorporation prior to October 1, 2003, including any shares within that class subsequently authorized by amendment, any amendment of the articles of incorporation if the shareholder is entitled to vote on the amendment and if such amendment would adversely affect such shareholder by:

1. Altering or abolishing any preemptive rights attached to any of his or her shares;

2. Altering or abolishing the voting rights pertaining to any of his or her shares, except as such rights may be affected by the voting rights of new shares then being authorized of any existing or new class or series of shares;

3. Effecting an exchange, cancellation, or reclassification of any of his or her shares, when such exchange, cancellation, or reclassification would alter or abolish the shareholder’s voting rights or alter his or her percentage of equity in the corporation, or effecting a reduction or cancellation of accrued dividends or other arrearages in respect to such shares;

4. Reducing the stated redemption price of any of the shareholder’s redeemable shares, altering or abolishing any provision relating to any sinking fund for the redemption or purchase of any of his or her shares, or making any of his or her shares subject to redemption when they are not otherwise redeemable;

5. Making noncumulative, in whole or in part, dividends of any of the shareholder’s preferred shares which had theretofore been cumulative;

6. Reducing the stated dividend preference of any of the shareholder’s preferred shares; or

7. Reducing any stated preferential amount payable on any of the shareholder’s preferred shares upon voluntary or involuntary liquidation;

(j) An amendment of the articles of incorporation of a benefit corporation to which s. 607.604 or s. 607.605 applies;

(k) An amendment of the articles of incorporation of a social purpose corporation to which s. 607.504 or s. 607.505 applies;
(m) A merger, domestication, conversion, or share exchange of a benefit corporation to which s. 607.604 applies.

(2) Notwithstanding subsection (1), the availability of appraisal rights under paragraphs (1)(a), (b), (c), and (d), and (e) shall be limited in accordance with the following provisions:

(a) Appraisal rights shall not be available for the holders of shares of any class or series of shares which is:

1. A covered security under s. 18(b)(1)(A) or (B) of the Securities Act of 1933[1] listed on the New York Stock Exchange or the American Stock Exchange or designated as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc.; or

2. Not a covered security, but traded in an organized market and Not so listed or designated, but has at least 2,000 shareholders and the outstanding shares of such class or series have a market value of at least $20 million, exclusive of the value of outstanding such shares held by the corporation’s subsidiaries, by the corporation’s senior executives, by the corporation’s directors, and by the corporation’s beneficial shareholders and voting trust beneficial owners shareholders owning more than 10 percent of the outstanding such shares; or

3. Issued by an open end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940[2] and which may be redeemed at the option of the holder at net asset value.

(b) The applicability of paragraph (a) shall be determined as of:

1. The record date fixed to determine the shareholders entitled to receive notice of, and to vote at, the meeting of shareholders to act upon the corporate action requiring appraisal rights, or, in the case of an offer made pursuant to s. 607.11035, the date of such offer; or

2. If there will be no meeting of shareholders and no offer is made pursuant to s. 607.11035, the close of business on the day before the consummation of the corporate action or the effective date of the amendment of the articles, as applicable, on which the board of directors adopts the resolution recommending such corporate action.

(c) Paragraph (a) shall not be applicable and appraisal rights shall be available pursuant to subsection (1) for the holders of any class or series of shares where the corporate action is an interested transaction who are required by the terms of the corporate action requiring appraisal rights to accept for such shares anything other than cash or shares of any class or any series of shares of any corporation, or any other proprietary interest of any other entity, that satisfies the standards set forth in paragraph (a) at the time the corporate action becomes effective.

(d) Paragraph (a) shall not be applicable and appraisal rights shall be available pursuant to subsection (1) for the holders of any class or series of shares if:

1. Any of the shares or assets of the corporation are being acquired or converted, whether by merger, share exchange, or otherwise, pursuant to the corporate action by a person, or by an affiliate of a person, who:

a. Is, or at any time in the 3 year period immediately
established in contemplation of or as part of the corporate action that are not more favorable than those existing before the corporate action or, if more favorable, that have been approved on behalf of the corporation in the same manner as is provided in s. 607.0832; or

3. In the case of a director of the corporation who will, in the corporate action, become a director of the acquiring entity in the corporate action or one of its affiliates, rights and benefits as a director that are provided on the same basis as those afforded by the acquiring entity generally to other directors of such entity or such affiliate.

(a) For the purposes of paragraph (d) only, the term "beneficial owner" means any person who, directly or indirectly, through any contract, arrangement, or understanding, other than a revocable proxy, has or shares the power to vote, or to direct the voting of, shares, provided that a member of a national securities exchange shall not be deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person solely because such member is the recordholder of such securities if the member is precluded by the rules of such exchange from voting without instruction on contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted. When two or more persons agree to act together for the purpose of voting their shares of the corporation, each member of the group formed thereby shall be deemed to have acquired beneficial ownership, as of the date of such agreement, of all voting shares of the corporation beneficially owned by any member of the group.

(3) Notwithstanding any other provision of this section,
the articles of incorporation as originally filed or any amendment to the articles of incorporation that limits or eliminates appraisal rights for any class or series of preferred shares, except that:

(a) No such limitation or elimination shall be effective if the class or series does not have the right to vote separately as a voting group, alone or as part of a group, on the action or if the action is a domestication under s. 607.11920 or a conversion under s. 607.11930, or a merger having a similar effect as a domestication or conversion in which the domesticated eligible entity or the converted eligible entity is an eligible entity; and

(b) Any such limitation or elimination contained in an amendment to the articles of incorporation that limits or eliminates appraisal rights for any of such shares that are outstanding immediately before the effective date of such amendment or that the corporation is or may be required to issue or sell thereafter pursuant to any conversion, exchange, or other right existing immediately before the effective date of such amendment shall not apply to any corporate action that becomes effective within 1 year after the effective date of such amendment or that date if such action would otherwise afford appraisal rights.

(2) A shareholder entitled to appraisal rights under this chapter may not challenge a completed corporate action for which appraisal rights are available under such corporate action if:

(a) Was not effectuated in accordance with the applicable provisions of this section or the corporation’s articles of incorporation, bylaws, or board of directors’ resolution;

(b) Was procured as a result of fraud or material misrepresentation;

(c) Was procured as a result of a shareholder’s written consent to the assertion of such rights no later than the date referred to in s. 607.1322(2)(b)2.

Section 162. Section 607.1303, Florida Statutes, is amended to read:

607.1303 Assertion of rights by nominees and beneficial owners.—

1. A record shareholder may assert appraisal rights as to fewer than all the shares registered in the record shareholder’s name but owned by a beneficial shareholder or a voting trust beneficial owner only if the record shareholder objects with respect to all shares of the class or series owned by the beneficial shareholder or a voting trust beneficial owner and notifies the corporation in writing of the name and address of each beneficial shareholder or voting trust beneficial owner on whose behalf appraisal rights are being asserted. The rights of a record shareholder who asserts appraisal rights for only part of the shares held of record in the record shareholder’s name shall be determined as if the shares as to which the record shareholder objects and the record shareholder’s other shares were registered in the names of different record shareholders.

2. A beneficial shareholder and a voting trust beneficial owner may assert appraisal rights as to shares of any class or series held on behalf of the shareholder only if such shareholder:

(a) Submits to the corporation the record shareholder’s written consent to the assertion of such rights no later than the date referred to in s. 607.1322(2)(b)2.
section 163. Subsections (1) and (3) of section 607.1320, Florida Statutes, are amended, and subsections (4) and (5) are added to that section, to read:

607.1320 Notice of appraisal rights.—
(1) If a proposed corporate action described in s. 607.1301 is to be submitted to a vote at a shareholders’ meeting, the meeting notice (or, where no approval of such action is required pursuant to s. 607.11035, the offer made pursuant to s. 607.11035), must state that the corporation has concluded that shareholders are, are not, or may be entitled to assert appraisal rights under this chapter. If the corporation concludes that appraisal rights are or may be available, a copy of ss. 607.1301-607.1340 must accompany the meeting notice or offer sent to those record shareholders entitled to exercise appraisal rights.
(3) If a proposed corporate action described in s. 607.1301 is to be approved by written consent of the shareholders pursuant to s. 607.0704:
(a) Written notice that appraisal rights are, are not, or may be available must be sent to each shareholder from whom a consent is solicited at the time consent of such shareholder is first solicited, and, if the corporation has concluded that appraisal rights are or may be available, a copy of ss. 607.1301-607.1340 must accompany such written notice; and
(b) Written notice that appraisal rights are, are not, or may be available must be delivered, at least 10 days before the corporate action becomes effective, to all nonconsenting and nonvoting shareholders, and, if the corporation has concluded that appraisal rights are or may be available, a copy of ss. 607.1301-607.1340 must accompany such written notice.

(4) Where a corporate action described in s. 607.1302(1) is proposed or a merger pursuant to s. 607.1104 is effected, and the corporation concludes that appraisal rights are or may be available, the notice referred to in subsection (1), paragraph (3)(a), or paragraph (3)(b) must be accompanied by:
(a) Financial statements of the corporation that issued the shares that may be or are subject to appraisal rights, consisting of a balance sheet as of the end of the fiscal year ending not more than 16 months before the date of the notice, an income statement for that fiscal year, and a cash flow statement for that fiscal year; however, if such financial statements are not reasonably available, the corporation must provide reasonably equivalent financial information; and
(b) The latest available interim financial statements, including year-to-date through the end of the interim period, of such corporation, if any.

(5) The right to receive the information described in subsection (4) may be waived in writing by a shareholder before or after the corporate action is effected other than by a shareholders’ meeting, the notice referred to in subsection (1) must be sent to all shareholders at the time that consents are first solicited pursuant to s. 607.0705, whether or not consents are solicited from all shareholders, and include the materials described in s. 607.1322.

Section 164. Section 607.1321, Florida Statutes, is amended...
Florida Senate - 2019 CS for CS for SB 892

590-03467A-19 2019892c2

Page 303 of 458

CODY: Words **stricken** are deletions; words **underlined** are additions.

5. If any proposed corporate action is to be approved by written consent, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares:

(a) Must deliver to the corporation before the vote is taken, or within 20 days after receiving the notice pursuant to s. 607.1320(3), if action is to be taken without a shareholders’ meeting, written notice of the shareholder’s intent to demand payment if the proposed action is effectuated; and

(b) Must not vote, or cause or permit to be voted, any shares of such class or series in favor of the proposed corporate action.

(2) If a proposed corporate action requiring appraisal rights under s. 607.1302 is to be approved by written consent, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares must not sign a consent in favor of the proposed corporate action with respect to that class or series of shares.

(3) If a proposed corporate action specified in s. 607.1321(1), (2), or (3) becomes effective, the corporation must deliver a written appraisal notice and form required by section 607.1321(1), (2), or (3) if action is to be taken under such consent, and no earlier than 10 days after such date, must:

(a) Supply a form that specifies the date that the corporate action became effective and that provides for the shareholder to state:

1. The shareholder’s name and address.

2. The number, classes, and series of shares as to which the shareholder asserts appraisal rights.

3. That the shareholder did not vote for or consent to the transaction.

(b) Must not tender, or cause or permit to be tendered, any shares of such class or series in response to such offer.

(4) **A shareholder who may otherwise be entitled to appraisal rights but does not satisfy the requirements of subsections (1), (2), or (3) of this section is not entitled to payment under this chapter.**

Section 165. Section 607.1322, Florida Statutes, is amended to read:

607.1322 Appraisal notice and form.—

(1) If a proposed corporate action requiring appraisal rights under s. 607.1302(1) becomes effective, the corporation must deliver a written appraisal notice and form required by paragraph (2)(a) to all shareholders who satisfied the requirements of s. 607.1321(1), (2), or (3) of this section. In the case of a merger under s. 607.1104, the parent must deliver a written appraisal notice and form to all record shareholders who are not party to a consent vote under s. 607.0704, and no earlier than 10 days after such date, must:

(a) Supply a form that specifies the date that the corporate action became effective and that provides for the shareholder to state:

1. The shareholder’s name and address.

2. The number, classes, and series of shares as to which the shareholder asserts appraisal rights.

3. That the shareholder did not vote for or consent to the transaction.

Page 304 of 458

CODY: Words **stricken** are deletions; words **underlined** are additions.
4. Whether the shareholder accepts the corporation’s offer as stated in subparagraph (b)4.
5. If the offer is not accepted, the shareholder’s estimated fair value of the shares and a demand for payment of the shareholder’s estimated value plus accrued interest.

(b) State:
1. Where the form must be sent and where certificates for certificated shares must be deposited and the date by which those certificates must be deposited, which date may not be earlier than the date by which the corporation must receive the required form under subparagraph 2.
2. A date by which the corporation must receive the form, which date may not be fewer than 40 nor more than 60 days after the date the subsection (1) appraisal notice and form are sent, and state that the shareholder shall have waived the right to demand appraisal with respect to the shares unless the form is received by the corporation by such specified date.
3. The corporation’s estimate of the fair value of the shares.
4. An offer to each shareholder who is entitled to appraisal rights to pay the corporation’s estimate of fair value set forth in subparagraph 3.
5. That, if requested in writing, the corporation will provide to the shareholder so requesting, within 10 days after the date specified in subparagraph 2., the number of shareholders who return the forms by the specified date and the total number of shares owned by them.
6. The date by which the notice to withdraw under s. 607.1322 must be received, which date must be within 20 days after the date specified in subparagraph 2.

(c) If not previously provided, be accompanied by a copy of ss. 607.1301-607.1340
   1. Financial statements of the corporation that issued the shares to be appraised, consisting of a balance sheet as of the end of the fiscal year ending not more than 15 months prior to the date of the corporation’s appraisal notice, an income statement for that year, a cash flow statement for that year, and the latest available interim financial statements, if any.

Section 166. Subsections (1) and (3) of section 607.1323, Florida Statutes, are amended to read:
607.1323 Perfection of rights; right to withdraw.—
   (1) A shareholder who receives notice pursuant to s. 607.1322 and who wishes to exercise appraisal rights must sign execute and return the form received pursuant to s. 607.1322(1) and, in the case of certificated shares, deposit the shareholder’s certificates in accordance with the terms of the notice by the date referred to in the notice pursuant to s. 607.1322(2)(b)2. Once a shareholder deposits that shareholder’s certificates or, in the case of uncertificated shares, returns the signed executed forms, that shareholder loses all rights as a shareholder, unless the shareholder withdraws pursuant to subsection (2).
   (3) A shareholder who does not sign execute and return the form and, in the case of certificated shares, deposit that shareholder’s share certificates if required, each by the date set forth in the notice described in s. 607.1322(2) subsection
607.1330 Court action.—

(1) If a shareholder makes demand for payment under ss. 607.1301-607.1340 this chapter,

Section 167. Subsection (2) of section 607.1324, Florida Statutes, is amended to read:

607.1324 Shareholder’s acceptance of corporation’s offer.—

(2) Upon payment of the agreed value, the shareholder shall

have any right to receive any further consideration

with respect to such interest in the shares.

Section 168. Section 607.1326, Florida Statutes, is amended
to read:

607.1326 Procedure if shareholder is dissatisfied with

offer.—

(1) A shareholder who is dissatisfied with the

corporation’s offer as set forth pursuant to s. 607.1322(2)(b)4.

must notify the corporation on the form provided pursuant to s.

607.1322(1) of that shareholder’s estimate of the fair value of

the shares and demand payment of that estimate plus accrued

interest.

(2) A shareholder who fails to notify the corporation in

writing of that shareholder’s demand to be paid the

shareholder’s stated estimate of the fair value plus accrued

interest under subsection (1) within the timeframe set forth in

s. 607.1322(2)(b)2. waives the right to demand payment under

this section and shall be entitled only to the payment offered

by the corporation pursuant to s. 607.1322(2)(b)4.

Section 169. Subsections (1), (2), (5), and (6) of section

607.1330, Florida Statutes, are amended to read:

607.1330 Court action.—

(1) If a shareholder makes demand for payment under s.

Page 307 of 458
CODING: Words stricken are deletions; words underlined are additions.
(5) Each shareholder made a party to the proceeding is entitled to judgment for the amount of the fair value of such shareholder’s shares, plus accrued interest, as found by the court.

(6) The corporation shall pay each such shareholder the amount found to be due within 10 days after final determination of the proceedings. Upon payment of the judgment, the shareholder shall cease to have any rights to receive any further consideration with respect to such shares other than any amounts ordered to be paid for court costs and attorney fees under s. 607.1331.

Section 170. Subsection (4) of section 607.1331, Florida Statutes, is amended to read:

(4) To the extent the corporation fails to make a required payment pursuant to s. 607.1324, the shareholder may sue directly for the amount owed and, to the extent successful, shall be entitled to recover from the corporation all costs and expenses of the suit, including attorney counsel fees.

Section 171. Section 607.1332, Florida Statutes, is amended to read:

607.1332 Disposition of acquired shares.—Shares acquired by a corporation pursuant to payment of the agreed value thereof or pursuant to payment of the judgment entered therefor, as provided in this chapter, may be held and disposed of by such corporation as authorized but unissued shares of the corporation, except that, in the case of a merger or share exchange, they may be held and disposed of as the plan of merger or share exchange otherwise provides. The shares of the surviving corporation into which the shares of such shareholders were converted or share exchange otherwise provides. The shares of the survivor corporation shall be entitled to judgment for the amount of the fair value of such shareholders' shares, plus accrued interest, as found by the court.

607.1333 Limitation on corporate payment.—

(1) No payment shall be made to a shareholder seeking appraisal rights if, at the time of payment, the corporation is unable to meet the distribution standards of s. 607.06401. In such event, the shareholder shall, at the shareholder’s option:

(a) Withdraw his or her notice of intent to assert appraisal rights, which shall in such event be deemed withdrawn with the consent of the corporation; or

(b) Retain his or her status as a claimant against the corporation and, if it is liquidated, be subordinated to the rights of creditors of the corporation, but have rights superior to the shareholders not asserting appraisal rights, and if the corporation is not liquidated, retain his or her right to be paid for the shares, which right the corporation shall be obliged to satisfy when the restrictions of this section do not apply.

Section 173. Section 607.1340, Florida Statutes, is created to read:

607.1340 Other remedies limited.—

(1) A shareholder entitled to appraisal rights under this chapter may not challenge a completed corporate action for which appraisal rights are available unless such corporate action was either:

CODING: Words underlined are additions; words stricken are deletions; words are deletions; words underlined are additions.
590-03467A-19 2019892c2

(a) Not authorized and approved in accordance with the applicable provisions of this chapter;

(b) Procured as a result of fraud, a material misrepresentation, or an omission of a material fact necessary to make statements made, in light of the circumstances in which they were made, not misleading.

(2) Nothing in this section operates to override or supersede the provisions of s. 607.0832.

Section 174. Section 607.1401, Florida Statutes, is amended to read:
607.1401 Dissolution by incorporators or directors.—If a corporation has not yet issued shares, its board of directors, or a majority of incorporators if it has no board of directors, a majority of the incorporators or directors of a corporation that has not issued shares or has not commenced business may dissolve the corporation by delivering to the department of state for filing articles of dissolution that must set forth:

(1) The name of the corporation;

(2) The date of its incorporation filing of its articles of incorporation;

(3) Either:

(a) That none of the corporation’s shares have been issued;

(b) That the corporation has not commenced business;

(4) That no debt of the corporation remains unpaid;

(5) That the net assets of the corporation remaining after winding up, if any, have been distributed to the shareholders, if shares were issued; and

(6) That a majority of the incorporators or directors

authorized the dissolution.

Section 175. Subsections (1) through (5) of section 607.1402, Florida Statutes, are amended to read:

607.1402 Dissolution by board of directors and shareholders; dissolution by written consent of shareholders.—

(1) A corporation’s board of directors may propose dissolution for submission to the shareholders by first adopting a resolution authorizing the dissolution.

(2) (a) For a proposal to dissolve to be adopted, it must be approved by the shareholders pursuant to subsection (5).

(b) In submitting the proposal to dissolve to the shareholders for approval, the board of directors must recommend that dissolution to the shareholders approve the dissolution, unless:

1. The board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation;

2. Section 607.0826 applies;

(c) If either subparagraph (b)1. or subparagraph (b)2. applies, the board must inform the shareholders of the basis for its no proceeding without such recommendation and communicates the basis for its determination to the shareholders; and

(d) The shareholders entitled to vote must approve the proposal to dissolve as provided in subsection (5).

(3) The board of directors may set conditions for the approval condition its submission of the proposal for dissolution by shareholders or for the effectiveness of the dissolution on any basis.

(4) If the approval of the shareholders is to be given at a
(5) Unless the articles of incorporation or the board of directors (acting pursuant to subsection (3)) require a greater vote or a vote by voting groups, the proposal to dissolve to be adopted must be approved by a majority of all the votes entitled to be cast on the proposal to dissolve that proposal.

Section 176. Section 607.1403, Florida Statutes, is amended to read:

607.1403 Articles of dissolution.—

(1) At any time after dissolution is authorized, the corporation may dissolve by delivering to the department of state for filing articles of dissolution which must shall be executed in accordance with s. 607.0120 and which must shall set forth:

(a) The name of the corporation;
(b) The date dissolution was authorized;
(c) If dissolution was approved by the shareholders, a statement that the proposal to dissolve was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation number cast for dissolution by the shareholders was sufficient for approval;
(d) If dissolution was approved by the shareholders and if voting by voting groups was required, a statement that the

For purposes of ss. 607.1401-607.1410, "dissolved corporation" means a corporation whose articles of dissolution have become effective and includes a successor entity. Further, for the purposes of this subsection, the term "successor entity" includes a trust, receivership, or other legal entity governed by the laws of this state to which the remaining assets and liabilities of a dissolved corporation are transferred and which exists solely for the purposes of prosecuting and defending suits by or against the dissolved corporation, thereby enabling the dissolved corporation to settle and close the business of the dissolved corporation, to dispose of and convey the property of the dissolved corporation, to discharge the liabilities of the dissolved corporation, and to distribute to the dissolved corporation's shareholders any remaining assets, but not for the purpose of continuing the activities and affairs for which the dissolved corporation was organized.

Section 177. Subsection (3) of section 607.1404, Florida Statutes, is amended to read:

607.1404 Revocation of dissolution.—

(3) After the revocation of dissolution is authorized, the corporation may revoke the dissolution by delivering to the department, within the 120-day period following the effective
<table>
<thead>
<tr>
<th>Section 178.</th>
<th>Section 607.1405, Florida Statutes, is amended to read:</th>
</tr>
</thead>
<tbody>
<tr>
<td>607.1405 Effect of dissolution.—</td>
<td></td>
</tr>
<tr>
<td>(1) A dissolved corporation that has dissolved continues its corporate existence but the dissolved corporation may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:</td>
<td></td>
</tr>
<tr>
<td>(a) Collecting its assets;</td>
<td></td>
</tr>
<tr>
<td>(b) Disposing of its properties that will not be distributed in kind to its shareholders;</td>
<td></td>
</tr>
<tr>
<td>(c) Collecting its assets;</td>
<td></td>
</tr>
<tr>
<td>(d) Making distributions of its remaining assets</td>
<td></td>
</tr>
<tr>
<td>(e) Subject its directors or officers to standards of conduct different from those prescribed in ss. 607.0801-607.0850 except as provided in s. 607.1421(4);</td>
<td></td>
</tr>
<tr>
<td>(f) Change quorum or voting requirements for its board of directors or shareholders; change provisions for selection, resignation, or removal of its directors or officers or both; or change provisions for amending its bylaws;</td>
<td></td>
</tr>
<tr>
<td>(g) Prevent commencement of a proceeding by or against the corporation in its corporate name;</td>
<td></td>
</tr>
<tr>
<td>(h) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution; or</td>
<td></td>
</tr>
<tr>
<td>(i) Terminate the authority of the registered agent of the corporation.</td>
<td></td>
</tr>
<tr>
<td>(3) A distribution in liquidation under this section may only be made by a dissolved corporation.</td>
<td></td>
</tr>
<tr>
<td>For purposes of determining the shareholders entitled to receive a distribution in liquidation, the board of directors may fix a record date for</td>
<td></td>
</tr>
</tbody>
</table>
Known claims against dissolved corporation.—

(1) A dissolved corporation may dispose of the known claims in the written notice given pursuant to subsections (1) and (2) by mailing notice of the rejection to

(a) State the name of the corporation that is the subject of the dissolution;

(b) State that the corporation is the subject of a dissolution and the effective date of the dissolution;

(c) Specify the information that must be included in a claim;

(d) State that a claim must be in writing and provide a mailing address where a claim may be sent;

(e) State the deadline, which may not be fewer than 120 days after the date the written notice is received by the claimant, by which the dissolved corporation must receive the claim;

(f) State that the claim will be barred if not received by the deadline;

(g) State that the dissolved corporation may make distributions thereafter to other claimants and to the dissolved corporation’s shareholders or persons interested without further notice; and

(h) Be accompanied by a copy of ss. 607.1405-607.1410.

(2) The written notice must:

(a) Be accompanied by a copy of ss. 607.1405-607.1410.

(b) State whether the corporation is the subject of a dissolution or is otherwise dissolved.

(c) Specify the information that must be included in a claim;

(d) State that a claim must be in writing and provide a mailing address where a claim may be sent;

(e) State the deadline, which may not be fewer than 120 days after the date the written notice is received by the claimant, by which the dissolved corporation must receive the claim;

(f) State that the claim will be barred if not received by the deadline;

(g) Specify the information that must be included in a claim;

(h) Be accompanied by a copy of ss. 607.1405-607.1410.

(3) A dissolved corporation may reject, in whole or in part, a claim submitted by a claimant and received prior to the deadline specified in the written notice given pursuant to subsections (1) and (2) by mailing notice of the rejection to

(a) State the name of the corporation that is the subject of the dissolution;

(b) State that the corporation is the subject of a dissolution and the effective date of the dissolution;

(c) Specify the information that must be included in a claim;

(d) State that a claim must be in writing and provide a mailing address where a claim may be sent;

(e) State the deadline, which may not be fewer than 120 days after the date the written notice is received by the claimant, by which the dissolved corporation must receive the claim;

(f) State that the claim will be barred if not received by the deadline;
The term “known claims” does not include a claim based on an event occurring after the effective date of the dissolution. A rejection notice sent by the dissolved corporation pursuant to this subsection must state that the claim will be barred unless the claimant, not later than 120 days after the claimant receives the rejection notice, commences an action in the circuit court in the applicable county against the dissolved corporation to enforce the claim.

(4) A claim against the dissolved corporation is barred:

(a) If a claimant who was given written notice pursuant to subsections (1) and (2) does not deliver the claim to the dissolved corporation by the specified deadline; or

(b) If the claim was timely received by the dissolved corporation but was timely rejected by the dissolved corporation under subsection (3) and the claimant does not commence the required action in the applicable county within 120 days after the claimant receives the rejection notice.

(5)(a) For purposes of this section, “known claims” means any claim or liability that, as of the date of the giving of the written notice contemplated by subsections (1) and (2):

1. Has matured sufficiently on or prior to the effective date of the dissolution to be legally capable of assertion against the dissolved corporation; or

2. Is unmatured as of the effective date of the dissolution but will mature in the future solely based on the passage of time.

(b) The term “known claims” does not include a claim based on an event occurring after the effective date of the dissolution or a claim that is a contingent claim.

(6) The giving of any notice pursuant to this section does not revive any claim then barred or constitute acknowledgment by the dissolved corporation that any person to whom such notice is sent is a proper claimant and does not operate as a waiver of any defense or counterclaim in respect of any claim asserted by any person to whom such notice is sent.

(1) A dissolved corporation or successor entity, as defined in subsection (15), may dispose of the known claims against it by following the procedures described in subsections (2), (3), and (4).

(2) The dissolved corporation or successor entity shall deliver to each of its known claimants written notice of the dissolution at any time after its effective date. The written notice shall:

(a) Provide a reasonable description of the claim that the claimant may be entitled to assert;

(b) State whether the claim is admitted or not admitted, in whole or in part, and, if admitted:

1. The amount that is admitted, which may be as of a given date;

2. Any interest obligation if fixed by an instrument of indebtedness;

(c) Provide a mailing address where a claim may be sent;

(d) State the deadline, which may not be fewer than 120 days after the effective date of the written notice, by which confirmation of the claim must be delivered to the dissolved corporation or successor entity; and

(e) State that the corporation or successor entity may make
A dissolved corporation or successor entity may reject, in whole or in part, any claim made by a claimant pursuant to this subsection by mailing notice of such rejection to the claimant within 90 days after receipt of such claim and, in all events, at least 150 days before expiration of 3 years following the effective date of dissolution. A notice sent by the dissolved corporation or successor entity pursuant to this subsection shall be accompanied by a copy of this section.

(4) A dissolved corporation or successor entity electing to follow the procedures described in subsections (2) and (3) shall also give notice of the dissolution of the corporation to persons with known claims, that are contingent upon the occurrence or nonoccurrence of future events or otherwise conditional or unmatured, and request that such persons present such claims in accordance with the terms of such notice. Such notice shall be in substantially the same form, and sent in the same manner, as described in subsection (2).

(5) A dissolved corporation or successor entity shall offer any claim whose known claim is contingent, conditional, or unmatured such security as the corporation or such entity determines is sufficient to provide compensation to the claimant if the claim matures. The dissolved corporation or successor entity shall deliver such offer to the claimant within 30 days after receipt of such claim and, in all events, at least 150 days before expiration of 3 years following the effective date of dissolution. If the claimant offered such security does not deliver in writing to the dissolved corporation or successor entity a notice rejecting the offer within 120 days after receipt of such offer for security, the claimant is deemed to have accepted such security as the sole source from which to satisfy his or her claim against the corporation.

(6) A dissolved corporation or successor entity which has given notice in accordance with subsection (3) and (5) shall petition the circuit court in the county where the corporation's principal office is located or was located at the effective date of dissolution to determine the amount and form of security that will be sufficient to provide compensation to any claimant who has rejected the offer for security made pursuant to subsection (5).

(7) A dissolved corporation or successor entity which has given notice in accordance with subsection (3) shall petition the circuit court in the county where the corporation's principal office is located or was located at the effective date of dissolution to determine the amount and form of security which will be sufficient to provide compensation to claimants whose claims are known to the corporation or successor entity but whose identities are unknown. The court shall appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this subsection. The reasonable fees and expenses of such guardian, including all reasonable expert witness fees, shall be paid by the petitioner in such proceeding.

(8) The giving of any notice or making of any offer pursuant to the provisions of this section shall not revive any claim then barred or constitute acknowledgment by the dissolved corporation or successor entity of such claim or the existence of such claim.
corporation or successor entity that any person to whom such notice is sent is a proper claimant and shall not operate as a waiver of any defense or counterclaim in respect of any claim asserted by any person to whom such notice is sent.

(3) A dissolved corporation or successor entity which has followed the procedures described in subsections (2) and (7):

(a) Shall pay the claims admitted or made and not rejected in accordance with subsection (3);

(b) Shall post the security offered and not rejected pursuant to subsection (5);

(c) Shall post any security ordered by the circuit court in any proceeding under subsections (6) and (7); and

(d) Shall pay or make provision for all other known obligations of the corporation or such successor entity.

Such claims or obligations shall be paid in full, and any such provision for payment shall be made in full if there are sufficient funds. If there are insufficient funds, such claims and obligations shall be paid or provided for according to their priority and, among claims of equal priority, ratably to the extent of funds legally available therefor. Any remaining funds shall be distributed to the shareholders of the dissolved corporation.

(11) Directors of a dissolved corporation or governing persons of a successor entity which has complied with subsection (9) or subsection (10) are not personally liable to the claimants of the dissolved corporation.

(12) A shareholder of a dissolved corporation the assets of which were distributed pursuant to subsection (9) or subsection (11) is not liable for any claim against the corporation in an amount in excess of such shareholder’s pro rata share of the claim or the amount distributed to the shareholder, whichever is less.

(13) A shareholder of a dissolved corporation, the assets of which were distributed pursuant to subsection (9), is not liable for any claim against the corporation, which claim is known to the corporation or successor entity, on which a rejection given pursuant to subsection (3) is not followed the procedures described in subsections (2) and (4) shall pay or make reasonable provision to pay all known claims and obligations, including all contingent, conditional, or unmatured claims known to the corporation or such successor entity and all claims which are known to the dissolved corporation or such successor entity but for which the identity of the claimant is unknown. Such claims shall be paid in full, and any such provision for payment made shall be made in full if there are sufficient funds. If there are insufficient funds, such claims and obligations shall be paid or provided for according to their priority and, among claims of equal priority, ratably to the extent of funds legally available therefor. Any remaining funds shall be distributed to the shareholders of the dissolved corporation.

(14) A dissolved corporation or successor entity which has not followed the procedures described in subsections (2) and (4) shall pay the claims admitted or made and not rejected in accordance with subsection (3).

Shall pay the claims admitted or made and not rejected in accordance with subsection (3);

Shall post any security ordered by the circuit court in any proceeding under subsections (6) and (7); and

Shall pay or make provision for all other known obligations of the corporation or such successor entity.

Such claims or obligations shall be paid in full, and any such provision for payment shall be made in full if there are sufficient funds. If there are insufficient funds, such claims and obligations shall be paid or provided for according to their priority and, among claims of equal priority, ratably to the extent of funds legally available therefor. Any remaining funds shall be distributed to the shareholders of the dissolved corporation.

(11) Directors of a dissolved corporation or governing persons of a successor entity which has complied with subsection (9) or subsection (10) are not personally liable to the claimants of the dissolved corporation.

(12) A shareholder of a dissolved corporation the assets of which were distributed pursuant to subsection (9) or subsection (11) is not liable for any claim against the corporation in an amount in excess of such shareholder’s pro rata share of the claim or the amount distributed to the shareholder, whichever is less.

(13) A shareholder of a dissolved corporation, the assets of which were distributed pursuant to subsection (9), is not liable for any claim against the corporation, which claim is known to the corporation or successor entity, on which a rejection given pursuant to subsection (3) is not followed the procedures described in subsections (2) and (4) shall pay or make reasonable provision to pay all known claims and obligations, including all contingent, conditional, or unmatured claims known to the corporation or such successor entity and all claims which are known to the dissolved corporation or such successor entity but for which the identity of the claimant is unknown. Such claims shall be paid in full, and any such provision for payment made shall be made in full if there are sufficient funds. If there are insufficient funds, such claims and obligations shall be paid or provided for according to their priority and, among claims of equal priority, ratably to the extent of funds legally available therefor. Any remaining funds shall be distributed to the shareholders of the dissolved corporation.
A dissolved corporation or successor entity may file notice of its dissolution with the department of State on the form prescribed by the department of State and request that persons with claims against the corporation which are not known to the dissolved corporation or successor entity present them in accordance with the notice. The notice must contain:

1. (a) State the name of the corporation that is the subject of the dissolution and the date of dissolution;

2. (b) State that the corporation is the subject of a dissolution and the effective date of the dissolution.

3. Specify the information that must be included in a claim:

4. State that a claim must be in writing and provide a mailing address where a claim may be sent; and

5. (c) State that a claim against the corporation under this subsection will be barred unless a proceeding to enforce the claim is commenced within 4 years after the filing of the notice.

(b) A dissolved corporation or successor entity may, within 10 days after filing articles of dissolution with the department of State, publish a “Notice of Corporate Dissolution.” The notice shall appear once a week for 2 consecutive weeks in a newspaper of general circulation in a county in the state in which the corporation has its principal office, if any, or, if none, in a county in the state in which the corporation owns real or personal property. Such newspaper shall meet the requirements as are prescribed by law for such purposes. The notice must contain:

1. (a) State the name of the corporation that is the subject of the dissolution and the date of dissolution;

2. (b) State that the corporation is the subject of a dissolution and the effective date of the dissolution.

3. Specify the information that must be included in a claim:

4. State that a claim must be in writing and provide a mailing address where a claim may be sent; and

5. (c) State that a claim against the corporation under this subsection will be barred unless a proceeding to enforce the claim is commenced within 4 years after the filing of the notice.
590-03467A-19 2019CS for CS for SB 892

1. State the name of the corporation that is the subject of the dissolution;
2. State that the corporation is the subject of a dissolution and the effective date of the dissolution;
3. Specify the information that must be included in the claim;
4. State that a claim must be in writing and provide a mailing address where a claim may be sent; and
5. State that a claim against the corporation under this subsection will be barred unless a proceeding to enforce the claim is commenced within 4 years after the date of the second consecutive weekly publication of the notice authorized by this section.

(a) State the name of the corporation and the date of dissolution;
(b) Describe the information that must be included in a claim and provide a mailing address to which the claim may be sent; and
(c) State that a claim against the corporation under this subsection will be barred unless a proceeding to enforce the claim is commenced within 4 years after the date of the second consecutive weekly publication of the notice authorized by this section.

(2) If the dissolved corporation or successor entity complies with paragraph (1)(a) or paragraph (1)(b) subsection (1) or subsection (2), unless sooner barred by another statute limiting actions, the claim of each of the following claimants with known or other claims is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within 4 years after the date of the second consecutive weekly publication of the notice authorized by this section.

(a) A claimant who did not receive written notice under s. 607.1406 or whose claim was not provided for under s. 607.1406(10), whether such claim is based on an event occurring before or after the effective date of dissolution.
(b) A claimant whose claim was timely sent to the dissolved corporation but on which no action was taken by the dissolved corporation.
(c) A claimant whose claim is not a known claim under s. 607.1406(5).

A claim may be entered under this section:

(a) Against the dissolved corporation, to the extent of its undistributed assets;
(b) If the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of such shareholder’s pro rata share of the claim or the corporate assets distributed to such shareholder in liquidation, whichever is less, provided that the aggregate liability of any shareholder of a dissolved corporation arising under this section, s. 607.1406, or otherwise may not exceed the amount distributed to the shareholder in dissolution.

(3) Nothing in this section shall preclude or relieve the corporation from its notification to claimants otherwise set forth in this chapter.

Section 181. Section 607.1408, Florida Statutes, is created to read:

607.1408 Claims against dissolved corporations;...
enforcement.—A claim that is not barred by s. 607.1406(4), by s. 607.1407(2), or by another statute limiting actions may be enforced:

(1) Against the dissolved corporation, to the extent of its undistributed assets; or

(2) Except as provided in s. 607.1409(4), if the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of the shareholder’s pro rata share of the claim or the corporate assets distributed to the shareholder in liquidation, whichever is less, provided that the aggregate liability of any shareholder of a dissolved corporation arising under s. 607.1406, under s. 607.1407, or otherwise may not exceed the total amount of assets distributed to the shareholder in dissolution.

Section 182. Section 607.1409, Florida Statutes, is created to read:

607.1409 Court proceedings.—

(1) A dissolved corporation that has filed a notice under s. 607.1407(1)(a) or published a notice under s. 607.1407(1)(b), may file an application with the circuit court in the applicable county for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved corporation or that are based on an event occurring after the effective date of dissolution but that, based on the facts known to the dissolved corporation, are reasonably estimated to arise after the effective date of dissolution. Provision need not be made for any claim that is or is reasonably anticipated to be barred under s. 607.1407(2).

(2) Within 10 days after the filing of the application under subsection (1), notice of the proceeding shall be given by the dissolved corporation to each claimant holding a contingent claim whose identity and contingent claim is known to the dissolved corporation. Such notice shall be accompanied by a copy of ss. 607.1405–607.1410.

(3) In any proceeding under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown. The reasonable fees and expenses of such guardian, including all reasonable expert witness fees, shall be paid by the dissolved corporation.

(4) Provision by the dissolved corporation for security in the amount and the form ordered by the court under subsection (1) shall satisfy the dissolved corporation’s obligations with respect to claims that are contingent, have not been made known to the dissolved corporation or are based on an event occurring after the effective date of dissolution, and such claims may not be enforced against a shareholder who received assets in liquidation.

Section 183. Section 607.1410, Florida Statutes, is created to read:

607.1410 Director duties.—

(1) Directors shall cause the dissolved corporation to discharge or make reasonable provision for the payment of claims and make distributions in liquidation of assets to shareholders after payment or provision for claims.

(2) Directors of a dissolved corporation that has disposed of claims under s. 607.1406, s. 607.1407, or s. 607.1409 are not liable to any claimant or shareholder for a breach of subsection.
Section 184. Section 607.1420, Florida Statutes, is amended to read:

607.1420 Grounds for Administrative dissolution.—

(1) The department may of State may commence a proceeding under s. 607.1121 to administratively dissolve a corporation administratively if the corporation does not:

(a) Deliver its annual report to the department. The corporation has failed to file its annual report and pay the annual report filing fee by 5 p.m. Eastern Time on the third Friday in September of each year;

(b) Pay a fee or penalty due to the department under this chapter;

(c) Appoint and maintain a registered agent and registered office as required by s. 607.0501. The corporation is without a registered agent or registered office in this state for 30 days or more;

(d) Deliver for filing a statement of change under s. 607.0502 within 30 days after a change has occurred in the name or address of the agent unless, within 30 days after the change occurred:

1. The agent filed a statement of change pursuant to s. 607.0503;

2. The change was made in accordance with s. 607.0502(4). The corporation does not notify the Department of State within 30 days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued;

3. The corporation’s period of duration stated in its articles of incorporation expires.

(e) The corporation has failed to answer truthfully and fully, within the time prescribed by this chapter, interrogatories propounded by the department of State; or

(f) The corporation’s period of duration stated in its articles of incorporation expires.

(2) Administrative dissolution of a corporation for failure to file an annual report must occur on the fourth Friday in September of each year. The department shall issue a notice in a record of administrative dissolution to the corporation dissolved for failure to file an annual report. Issuance of the notice may be by electronic transmission to a corporation that has provided the department with an e-mail address.

(3) If the department determines that one or more grounds exist for administratively dissolving a corporation under paragraph (1)(b), paragraph (1)(c), or paragraph (1)(d), the department shall serve notice in a record to the corporation of its intent to administratively dissolve the corporation. Issuance of the notice may be by electronic transmission to a corporation that has provided the department with an e-mail address.

(4) If, within 60 days after sending the notice of intent to administratively dissolve pursuant to subsection (3), a corporation does not correct each ground for dissolution under paragraph (1)(b), paragraph (1)(c), or paragraph (1)(d) or demonstrate to the reasonable satisfaction of the department that each ground determined by the department does not exist, the department shall dissolve the corporation administratively and issue to the corporation a notice in a record of
Section 185. Section 607.1421, Florida Statutes, is amended by deleting subsection (2) and that the information is correct, upon payment of all required fees and penalties, the department shall reinstate the corporation.

(2) In lieu of the requirement to file an application for reinstatement as described in subsection (1), an administratively dissolved corporation may submit all fees and penalties owed by the corporation at the rates provided by law at the time the corporation applies for reinstatement, together with a current annual report, signed by both the registered agent and an officer or director of the corporation, which contains the information described in subsection (1).

(3) If the department determines that an application for reinstatement contains the information required under subsection (1) or subsection (2) and that the information is correct, upon payment of all required fees and penalties, the department shall reinstate the corporation.
(4) When reinstatement under this section becomes effective:
   (a) The reinstatement relates back to and takes effect as of the effective date of the administrative dissolution.
   (b) The corporation may operate as if the administrative dissolution had never occurred.
   (c) The rights of a person arising out of an act or omission in reliance on the dissolution before the person knew or had notice of the reinstatement are not affected and all fees then owed by the corporation, computed at the rate provided by law at the time the corporation applied for reinstatement.

(2) If the Department of State determines that the application contains the information required by subsection (1) and that the information is correct, it shall reinstate the corporation.

(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on its business as if the administrative dissolution had never occurred.

(5) The name of the dissolved corporation is not shall not be available for assumption or use by another eligible entity corporation until 1 year after the effective date of dissolution unless the dissolved corporation provides the Department of State with a record signed as required by an affidavit executed as required by s. 607.0120 permitting the immediate assumption or use of the name by another eligible entity corporation.

(6) If the name of the dissolved corporation has been lawfully assumed in this state by another business entity, the corporation, the Department of State shall require the dissolved corporation to amend its articles of incorporation to change its name before accepting its application for reinstatement.

Section 187. Section 607.1423, Florida Statutes, is amended to read:
607.1423 Judicial review of appeal from denial of reinstatement.—
(1) If the Department of State denies a corporation’s application for reinstatement after following administrative dissolution, the department shall serve the corporation under either s. 607.0504(1) or s. 607.0504(2) with a written notice that explains the reason or reasons for denial.

(2) Within 30 days after service of a notice of denial of reinstatement, a corporation may appeal the denial by petitioning the Circuit Court of Leon County to set aside the dissolution. The petition must be served on the department and contain a copy of the department’s notice of administrative dissolution. After exhaustion of administrative remedies, the corporation may appeal the denial of reinstatement to the appropriate court as provided in s. 120.68 within 30 days after service of the notice of denial is perfected. The corporation appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the Department of State’s certificate of dissolution, the corporation’s application for reinstatement, and the department’s notice of denial.

(3) The court may summarily order the Department of State to reinstate the dissolved corporation or may take other action the court considers appropriate.
Section 188. Section 607.1430, Florida Statutes, is amended to read:

607.1430 Grounds for judicial dissolution.—

(1) A circuit court may dissolve a corporation or order such other remedy as provided in s. 607.1434:

(a) In a proceeding by the Department of Legal Affairs to dissolve a corporation if it is established that:

1. The corporation obtained its articles of incorporation through fraud; or

2. The corporation has continued to exceed or abuse the authority conferred upon it by law.

(b) In a proceeding by a shareholder to dissolve a corporation if it is established that:

1. The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and:

a. Irreparable injury to the corporation is threatened or being suffered;

b. The business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally because of the deadlock; or

3. Irreparable injury to the corporation is threatened or being suffered;

4. The business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally because of the deadlock; or

5. There is reasonable cause to believe that the corporate assets are being misapplied or wasted, causing material injury to the corporation; or

6. The directors or those in control of the corporation have acted, are acting, or will are reasonably expected to act in a manner that is illegal, oppressive, or fraudulent;

(c) In a proceeding by a creditor if it is established that:

1. The creditor’s claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

2. The corporation has admitted in writing that the creditor’s claim is due and owing and the corporation is insolvent;

(d) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision; or

(e) In a proceeding by a shareholder if the corporation has abandoned its business and has failed within a reasonable period of time to liquidate and distribute its assets and dissolve.

(2) Paragraph (1)(b) does not apply in the case of a corporation that, on the date of the filing of the proceeding, has shares that are:
1. A redemption or a purchase and sale of shares or other equity securities;
2. A governance change;
3. A sale of the corporation or all or substantially all of the corporation's assets;
4. A similar provision that, if initiated and effectuated, breaks the deadlock by causing the transfer of the shares or other equity securities, a governance change, or a sale of the corporation or all or substantially all of the corporation's assets.

(b) As used in this section, the term "deadlock sale provision" means a provision in a shareholder agreement that complies with s. 607.0732, which is or may be applicable in the event of a deadlock among the directors or shareholders of the corporation, which neither the directors nor the shareholders, as applicable, of the corporation are able to break; and which provides for a deadlock breaking mechanism, including, but not limited to:

1. A redemption or a purchase and sale of shares or other equity securities;
2. A governance change;
3. A sale of the corporation or all or substantially all of the assets of the corporation; or
4. A similar provision that, if initiated and effectuated, breaks the deadlock by causing the transfer of the shares or other equity securities, a governance change, or a sale of the corporation or all or substantially all of the corporation's assets.

(f)(a) In the event of oppressive action that satisfies subparagraph (i)(b)4., if the shareholders are subject to a shareholder agreement that complies with s. 607.0732 and contains an oppressive action provision, then such oppressive action provision shall apply to the resolution of such deadlock in lieu of the court entering an order of judicial dissolution or an order directing the purchase of petitioner’s shares under s. 607.1436, so long as the provisions of such oppressive action provision are initiated and effectuated within the time periods specified for the corporation to act under s. 607.1436 and in accordance with the terms of such oppressive action provision.
(b) For purposes of this section, the term “oppressive action sale provision” means a provision in a shareholder agreement that complies with s. 607.0732, which is or may be applicable in the event of a shareholder’s assertion of the occurrence or existence of oppressive action; which neither the directors nor the shareholders, as applicable, of the corporation are able to address; and which provides for a mechanism for addressing the occurrence or existence of such shareholder asserted oppressive action including, but not limited to:

1. A redemption or purchase and sale of shares or other equity securities;

2. The sale of the corporation or of all or substantially all of the assets of the corporation; or

3. A similar provision that, if initiated and effectuated, causes the transfer of shares or other equity securities to be redeemed or purchased and sold or the sale of the corporation or of all or substantially all of the corporation’s assets.

(6) A deadlock sale provision or an oppressive action sale provision in a shareholder agreement which complies with s. 607.0732 which is not initiated and effectuated before the court enters an order of judicial dissolution under subparagraph (1)(b)1., subparagraph (1)(b)2., or subparagraph (1)(b)4., as the case may be, does not adversely affect the rights of shareholders to seek judicial dissolution under subparagraph (1)(b)1., subparagraph (1)(b)2., or subparagraph (1)(b)4., as the case may be, or the rights of the shareholder or one or more shareholders to purchase the petitioner’s interest under s. 607.1436. The filing of an action for judicial dissolution on the grounds described in subparagraph (1)(b)1., subparagraph (1)(b)2., or subparagraph (1)(b)4., as the case may be, or an election to purchase the petitioner’s interest under s. 607.1436, does not adversely affect the right of a shareholder to initiate an available deadlock sale provision or an oppressive action sale provision if the deadlock sale provision or the oppressive action sale provision, as the case may be, is initiated and effectuated before the court enters an order of judicial dissolution under subparagraph (1)(b)1., subparagraph (1)(b)2., or subparagraph (1)(b)4., as the case may be, or an order directing the purchase of petitioner’s interest under s. 607.1436.

(7) For purposes of subsections (1), (2), and (3), the term “shareholder” means a record shareholder, a beneficial shareholder, or an unrestricted voting trust beneficial owner.

Section 189. Subsections (1), (3), and (4) of section 607.1431, Florida Statutes, are amended to read:

(1) Venue for a proceeding brought under s. 607.1430 lies in the circuit court in the applicable county of the county where the corporation’s principal office is or was last located, as shown by the records of the Department of State, or, if none in this state, where its registered office is or was last located.
(3) A court in a proceeding brought under s. 607.1430 to dissolve a corporation may issue injunctions, appoint a receiver or custodian during the proceeding pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing can be held.

(4) Within 30 days of the commencement of a proceeding under s. 607.1430(1)(b), the corporation shall deliver to all shareholders, other than the petitioner, a notice stating that the shareholders are entitled to avoid the dissolution of the corporation by electing to purchase the petitioner’s shares under s. 607.1436 and accompanied by a copy of s. 607.1436.

(5) If the court determines that any party has commenced, continued, or participated in a proceeding on action under s. 607.1430 and has acted arbitrarily, frivolously, vexatiously, or not in good faith, the court may, in its discretion, award attorney’s fees and other reasonable expenses to the other parties to the action who have been adversely affected by such actions.

Section 190. Subsections (1) and (2), paragraph (a) of subsection (3), and subsections (4) and (5) of section 607.1432, Florida Statutes, are amended to read:

607.1432 Receivership or custodianship.—

(1) A court in a judicial proceeding brought under s. 607.1430 to dissolve a corporation may appoint one or more receivers to wind up and liquidate, or one or more custodians to manage, the business and affairs of the corporation. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has exclusive jurisdiction over the corporation and all of its property wherever located.

(2) The court may appoint a natural person or an eligible entity a corporation authorized to act as a receiver or custodian. The eligible entity corporation may be a domestic or foreign eligible entity corporation authorized to transact business in this state. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

(3) The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended from time to time. Among other powers:

(a) The receiver:

1. May dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if approved by the court; and

2. May sue and defend in his, her, or its own name as receiver of the corporation in all courts of this state.

(4) The court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is determined by the court to be in the best interests of the corporation and its shareholders and creditors.

(5) The court from time to time during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made to the receiver or custodian and his, her, or its counsel from the assets of the corporation or proceeds from the sale of the assets.
Section 191. Section 607.1433, Florida Statutes, is amended to read:

607.1433 Judgment of dissolution.—

(1) If after a hearing in a proceeding under s. 607.1430 the court determines that one or more grounds for judicial dissolution described in s. 607.1430 exist, it may enter a judgment dissolving the corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the judgment to the department of state, which shall file it.

(2) After entering the judgment of dissolution, the court shall direct the winding up and liquidation of the corporation’s business and affairs in accordance with s. 607.1405 and the notification of claimants in accordance with ss. 607.1406 and 607.1407, subject to the provisions of subsection (3).

(3) In a proceeding for judicial dissolution, the court may require all creditors of the corporation to file with the clerk of the court or with the receiver, in such form as the court may prescribe, proofs under oath of their respective claims. If the court requires the filing of claims, it shall fix a date, which shall be not less than 4 months from the date of the order, as the last day for filing of claims. The court shall prescribe the method by which such notice of the deadline for filing claims shall be given to creditors and claimants. Prior to the date so fixed, the court may extend the time for the filing of claims by court order. Creditors and claimants failing to file proofs of claim on or before the date so fixed shall be barred, by order of court, from participating in the distribution of the assets of the corporation. Nothing in this section affects the enforceability of any recorded mortgage or lien or the perfected security interest or rights of a person in possession of real or personal property.

Section 192. Section 607.1434, Florida Statutes, is amended to read:

607.1434 Alternative remedies to judicial dissolution.—

(1) In a proceeding under an action for dissolution pursuant to s. 607.1430, the court may, as an alternative to directing the dissolution of the corporation and upon a showing of sufficient merit to warrant such remedy:

(a) Appoint a receiver or custodian during the proceeding pendente lite as provided in s. 607.1432;

(b) Appoint a provisional director as provided in s. 607.1435;

(c) Order a purchase of the petitioner complaining shareholder’s shares pursuant to s. 607.1436; or

(d) Upon proof of good cause, make any order or grant any equitable relief other than dissolution or liquidation as in its discretion it may deem appropriate.

(2) Alternative remedies, such as the appointment of a receiver or custodian, may also be ordered in the discretion of the court, upon a showing of sufficient merit to warrant such remedy, in advance of directing the dissolution of the corporation or, after a judgment of dissolution is entered, to assist in facilitating the winding up of the corporation.

Section 193. Subsections (1) and (3) of section 607.1435, Florida Statutes, are amended to read:

607.1435 Provisional director.—
In a proceeding under s. 607.1430, a provisional director may be appointed in the discretion of the court if it appears that such action by the court will remedy the grounds alleged by the complaining shareholder to support the jurisdiction of the court under s. 607.1430. A provisional director may be appointed notwithstanding the absence of a vacancy on the board of directors, and such director shall have all the rights and powers of a duly elected director, including the right to notice of and to vote at meetings of directors, until such time as the provisional director is removed by order of the court or, unless otherwise ordered by a court, removed by a vote of the shareholders sufficient either to elect a majority of the board of directors or, if greater than majority voting is required by the articles of incorporation or the bylaws, to elect the requisite number of directors needed to take action. A provisional director shall be an impartial person who is neither a shareholder nor a creditor of the corporation or of any subsidiary or affiliate of the corporation, and whose further qualifications, if any, may be determined by the court.

(3) In any proceeding under which a provisional director is appointed pursuant to this section, the court shall allow reasonable compensation to the provisional director for services rendered and reimbursement or direct payment of reasonable costs and expenses, which amounts shall be paid by the corporation.

Section 194. Section 607.1436, Florida Statutes, is amended to read:

607.1436 Election to purchase instead of dissolution.—

(1) In a proceeding under s. 607.1430(1)(b) or 607.1430(2), or (2) to dissolve a corporation, the corporation may elect or, if it fails to elect, one or more shareholders may elect to purchase all shares owned by the petitioning shareholder at fair value of the shares. An election pursuant to this section shall be irrevocable unless the court determines that it is equitable to set aside or modify the election.

(2) An election to purchase pursuant to this section may be filed with the court at any time within 90 days after the filing of the petition under s. 607.1430(1)(b) or (2) or at such later time as the court may allow. If the election to purchase is filed by one or more shareholders, the corporation shall, within 10 days thereafter, give written notice to all shareholders, other than the petitioner. The notice must state the name and number of shares owned by the petitioner and the name and number of shares owned by each electing shareholder and must advise the recipients of their right to join in the election to purchase shares in accordance with this section. Shareholders who wish to participate must file notice of their intention to join in the purchase no later than 30 days after the effective date of the notice to them. All shareholders who have filed an election or notice of their intention to participate in the election to purchase thereby become parties to the proceeding and shall participate in the purchase in proportion to their ownership of shares as of the date the first election was filed, unless they otherwise agree or the court otherwise directs. After an election has been filed by the corporation or one or more shareholders, the proceeding under s. 607.1430(1)(b) or 607.1430(2) or (2) may not be discontinued or settled, nor may the petitioning shareholder sell or otherwise dispose of his or her shares, unless the court
determines that it would be equitable to the corporation and the shareholders, other than the petitioner, to permit such discontinuance, settlement, sale, or other disposition.

(3) If, within 60 days after the filing of the first election, the parties reach agreement as to the fair value and terms of the purchase of the petitioner’s shares, the court shall enter an order directing the purchase of the petitioner’s shares upon the terms and conditions agreed to by the parties.

(4) If the parties are unable to reach an agreement as provided for in subsection (3), the court, upon application of any party, may stay the proceeding to dissolve under s. 607.1430(1)(b) and shall, whether or not the proceeding is stayed, shall stay the s. 607.1430 proceedings and determine the fair value of the petitioner’s shares as of the day before the date on which the petition under s. 607.1430 was filed or as of such other date as the court deems appropriate under the circumstances.

(5) Upon determining the fair value of the shares, the court shall enter an order directing the purchase upon such terms and conditions as the court deems appropriate, which may include payment of the purchase price in installments, when necessary in the interests of equity, provision for security to assure payment of the purchase price and any additional costs, fees, and expenses as may have been awarded, and, if the shares are to be purchased by shareholders, the allocation of shares among such shareholders. In allocating the petitioner’s shares among holders of different classes of shares, the court shall attempt to preserve any the existing distribution of voting rights among holders of different classes and series insofar as practicable and may direct that holders of any a specific class or classes or series shall not participate in the purchase.

Interest may be allowed at the rate and from the date determined by the court to be equitable; however, if the court finds that the refusal of the petitioning shareholder to accept an offer of payment was arbitrary or otherwise not in good faith, no interest shall be allowed. If the court finds that the petitioning shareholder had probable grounds for relief under s. 607.1430(1)(b) and s. 607.1430(1)(b), it may award expenses to the petitioning shareholder, including reasonable fees and expenses of counsel and of any experts employed by petitioner.

(6) The upon entry of an order under subsection (3) or subsection (5) shall be subject to the provisions of subsection (8), and the order shall not be entered unless and until the award is determined by the court to be permitted under the provisions of subsection (8). In determining compliance with s. 607.06401, the court may rely on an affidavit from the corporation as to compliance with that section as of the measurement date. Upon entry of an order under subsection (3) or subsection (5), the court shall dismiss the petition to dissolve the corporation under s. 607.1430(b) and the petitioning shareholder shall no longer have any rights or status as a shareholder of the corporation, except the right to receive the amounts awarded by the order of the court, which shall be enforceable in the same manner as any other judgment.

(7) The purchase ordered pursuant to subsection (5) shall be made within 10 days after the date the order becomes final unless, before that time, the corporation files with the court a notice of its intention to adopt articles of dissolution.
pursuant to ss. 607.1402 and 607.1403, which articles shall then be adopted and filed within 90 days thereafter. Upon filing of such articles of dissolution, the corporation shall be dissolved in accordance with the provisions of ss. 607.1402 and 607.1406, and the order entered pursuant to subsection (5) shall no longer be of any force or effect, except that the court may award the petitioning shareholder reasonable fees and expenses of counsel and any experts in accordance with the provisions of subsection (5) and the petitioner may continue to pursue any claims previously asserted on behalf of the corporation.

(8) Any payment by the corporation pursuant to an order under subsection (3) or subsection (5), other than an award of fees and expenses pursuant to subsection (5), is subject to the provisions of s. 607.06401. Unless otherwise provided in the court's order, the effect of the distribution under s. 607.06401 shall be measured as of the date of the court's order under subsection (3) or subsection (5).

Section 195. Section 607.14401, Florida Statutes, is amended to read:

607.14401 Deposit with Department of Financial Services.—
Assets of a dissolved corporation that should be transferred to a creditor, claimant, or shareholder of the corporation who cannot be found or who is not competent to receive them shall be reduced to cash and deposited, within 6 months from the date fixed for the payment of the final liquidating distribution, with the Department of Financial Services for safekeeping, whose such assets shall be held as abandoned property. When the creditor, claimant, or shareholder furnishes satisfactory proof of entitlement to the amount or assets deposited, the Department of Financial Services shall pay such person the creditor, claimant, or shareholder or his or her representative that amount or those assets.

Section 196. Section 607.1501, Florida Statutes, is amended to read:

607.1501 Authority of foreign corporation to transact business required; activities not constituting transacting business.—

(1) A foreign corporation may not transact business in this state until it obtains a certificate of authority from the department of State.

(2) The following activities, among others, do not constitute transacting business within the meaning of subsection (1):

(a) Maintaining, defending, mediating, arbitrating, or settling any proceeding.

(b) Carrying on any activity concerning the internal affairs of the foreign corporation, including holding meetings of its shareholders or board of directors the board of directors or shareholders or carrying on other activities concerning internal corporate affairs.

(c) Maintaining bank accounts in financial institutions.

(d) Maintaining offices or agencies for the transfer, exchange, and registration of the corporation's own securities of the foreign corporation or maintaining trustees or depositaries with respect to those securities.

(e) Selling through independent contractors.

(f) Soliciting or obtaining orders, whether by mail or through employees, agents, or otherwise, if the orders require...
(g) Creating or acquiring indebtedness, mortgages, or and 
security interests in real or personal property.

(h) Securing or collecting debts or enforcing mortgages or 
and security interests in property securing the debts, and 
holding, protecting, or maintaining property so acquired.

(i) Transacting business in interstate commerce.

(j) Conducting an isolated transaction that is completed 
within 30 days and that is not one in the course of repeated 
transactions of a like nature.

(k) Owning and controlling a subsidiary corporation 
incorporated in or limited liability company formed in, or 
transacting business within, this state; or voting the shares 
stock of any such subsidiary corporation; or voting the 
membership interests of any such limited liability company, 
which it has lawfully acquired.

(l) Owning a limited partnership interest in a limited 
partnership that is transacting business within this 
state, unless the limited partner manages or controls the 
partnership or exercises the powers and duties of a general 
partner.

(m) Owning, protecting, and maintaining, without more, real 
and personal property.

(3) The list of activities in subsection (2) is not an 
exhaustive list of activities that do not constitute transacting 
business within the meaning of subsection (1).

(4) This section does not apply in determining the contacts 
or activities that may subject a foreign corporation has no 
application to the question of whether any foreign corporation

is subject to service of process, taxation, or regulation under 
the law of this state under any law of this state other 
than this chapter.

Section 197. Section 607.15015, Florida Statutes, is 
created to read:

607.15015 Governing law.—

(1) The law of the state or other jurisdiction under which 
a foreign corporation exists governs:

(a) The organization and internal affairs of the foreign 
corporation; and

(b) The interest holder liability of its shareholders.

(2) A foreign corporation may not be denied a certificate 
of authority by reason of a difference between the laws of its 
jurisdiction of formation and the laws of this state.

(3) A certificate of authority does not authorize a foreign 
corporation to engage in any business or exercise any power that 
a corporation may not engage in or exercise in this state.

Section 198. Section 607.1502, Florida Statutes, is amended 
to read:

607.1502 Effect of failure to have a certificate of 
Consequences of transacting business without authority.—

(1) A foreign corporation transacting business in this 
state or its successors may not prosecute or maintain an action 
or proceeding without a certificate of authority may not 
maintain a proceeding in any court in this state until it has 
been obtained or a certificate of authority to transact business 
in this state.

(2) The successor to a foreign corporation that transacted 
business in this state without a certificate of authority and
the assignee of a cause of action arising out of that business may not prosecute or maintain a proceeding based on that cause of action in any court in this state until the foreign corporation or its successor has obtained a certificate of authority to transact business in this state.

(3) A court may stay a proceeding commenced by a foreign corporation or its successor or assignee until it determines whether the foreign corporation or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign corporation or its successor has obtained the certificate of authority to transact business in this state.

(4) A foreign corporation which transacts business in this state without obtaining a certificate of authority is liable to this state for the years or parts thereof during which it transacted business in this state without obtaining a certificate of authority in an amount equal to all fees and penalties that would have been imposed by this chapter upon the foreign corporation had it duly applied for and received a certificate of authority to transact business in this state as required under this chapter. In addition to the payments thus prescribed, the foreign corporation may, to the extent ordered by a court of competent jurisdiction, be liable for a civil penalty of not less than $500 but not more than $1,000 for each year or part thereof during which it transacts business in this state without a certificate of authority. The Department of State may collect all penalties due under this subsection and may bring an action in circuit court to recover all penalties due and owing the state.
(a) The name of the foreign corporation and, if the name does not comply with s. 607.0401, an alternate name adopted pursuant to s. 607.1506, but if its name does not satisfy such requirements, a corporate name that otherwise satisfies the requirements of s. 607.1506.1.

(b) The name of the foreign corporation’s jurisdiction of incorporation. Jurisdiction under the law of which it is incorporated.

(c) Its date of incorporation and period of duration.

(d) The principal office and mailing address of the foreign corporation, street address of the principal office.

(e) The name and street address in this state of, and the written acceptance by, the foreign corporation’s initial registered agent in this state, of its registered office in this state and the name of its registered agent at that office.

(f) The names and usual business addresses of its current directors and officers.

(g) Additional information as may be necessary or appropriate in order to enable the department of state to determine whether the foreign corporation is entitled to file an application for certificate of authority to transact business in this state and to determine and assess the fees and taxes payable as prescribed in this chapter.

(2) The foreign corporation shall deliver with a completed application under subsection (1) a certificate of existence or a record for a document of similar import, duly authenticated, not more than 90 days prior to delivery of the application to the department of state, signed by the Secretary.

Section 200. Section 607.1504, Florida Statutes, is amended to read:

607.1504 Amended certificate of authority.—

(1) A foreign corporation authorized to transact business in this state shall deliver for filing an amendment to its certificate of authority to the Department of State to obtain an amended certificate of authority to reflect a change in any of the following if it changes:

(a) Its name on the records of the department. Corporate name.

(b) The period of its duration.

(c) The jurisdiction of its incorporation.

(d) The name and street address in this state of the foreign corporation’s registered agent in this state, unless the change was timely made in accordance with s. 607.0502 or s. 607.0503.

(2) The amendment must be filed within 90 days after the change is made and, if the name

Page 357 of 458

Page 358 of 458

CODING: Words underlined are deletions; words underlined are additions.
occurrence of a change described in subsection (1), must be
signed by an officer of the foreign corporation, and must state
the following: Such application shall be made within 90 days
after the occurrence of any change mentioned in subsection (1),
shall be on forms prescribed by the Department of State,
and shall be executed in accordance with s. 607.0120. The
foreign corporation shall deliver with the completed
application, a certificate, or a document of similar import,
authenticated as of a date not more than 90 days prior to
delivery of the application to the Department of State by the
Secretary of State or other official having custody of corporate
records in the jurisdiction under the laws of which it is
incorporated, evidencing the amendment. A translation of the
certificate, under oath or affirmation of the translator, must
be attached to a certificate that is in a language other than
English. The application shall set forth:
(a) The name of the foreign corporation as it appears on
the records of the Department of State.
(b) The jurisdiction of its incorporation.
(c) The date the foreign corporation was authorized to
do business in this state.
(d) If the name of the foreign corporation has been
changed, the name relinquished and its new name, the new name,
a statement that the change of name has been effected under the
law of the jurisdiction of its incorporation, and the date the
change was effected.
(e) If the amendment changes its period of duration, a
statement of such change.
(f) If the amendment changes the jurisdiction of

590-03467A-19 2019892c2
Page 360 of 458

incorporation of the foreign corporation, a statement of that
such change.

(3) The requirements of s. 607.1503 for obtaining an
original certificate of authority apply to obtaining an amended
certificate under this section unless the official having
custody of the foreign corporation’s publicly filed records in
its jurisdiction of incorporation did not require an amendment
to effectuate the change on its records.

(4) Subject to subsection (3), a foreign corporation
authorized to transact business in this state may make
application to the department to obtain an amended certificate
of authority to add, remove, or change the name, title,
capacity, or address of an officer or director of the foreign
corporation.

Section 201. Section 607.1505, Florida Statutes, is amended
to read:

607.1505 Effect of a certificate of authority.—
(1) Unless the department determines that an application
for a certificate of authority of a foreign corporation
authorizes the foreign corporation to which it is issued to
transact business in this state does not comply with the filing
requirements of this chapter, the department shall, upon payment
of all filing fees, authorize the foreign corporation to
transact business in this state and file the application for
certificate of authority subject, however, to the right of the
Department of State to suspend or revoke the certificate as
provided in this act.

(2) The filing by the department of an application for a
certificate of authority means that the foreign corporation that

CODING: Words __stricken___ are deletions; words _______ are additions.
A foreign corporation, to obtain or maintain a certificate of authority to transact business in this state, is entitled to file an application for a certificate of authority with the alternate name need not comply with s. 865.09 with respect to the organization or internal affairs of a foreign corporation. If the corporation's real corporate name, adopted for use in this state, is not entitled to file an application for a certificate of authority, unless the alternate name complies with s. 607.0401. If the corporate name of a foreign corporation does not satisfy the requirements of s. 607.0401, the foreign corporation, to obtain or maintain a certificate of authority to transact business in this state, shall be cross-referenced to the original corporate name as provided in this chapter. An alternate name adopted for use in this state shall be cross-referenced to the original corporate name in the records of the Division of Corporations. If the corporation's real corporate name becomes available in this state or the corporation chooses to change its real corporate name, a record approving the election or change, as the case may be, by its directors or shareholders, and signed as required pursuant to s. 607.0120, shall be delivered to the department for filing.

(a) May add the word “corporation,” “company,” or “incorporated” to the name of a foreign corporation that adopts an alternate name. May use an alternate name that complies with s. 607.0401 as a foreign corporation to change its corporate name, adopted for use in this state, to “Inc.” or “Co.” or “Corp.” or “Co.” or “Corp.” or “Inc.” to the name. If the actual name of the foreign corporation subsequently becomes available in this state and the foreign corporation elects to operate in this state under its actual name, or the foreign corporation chooses to change its alternate name, a record approving the election or change, as the case may be, by its directors or shareholders, and signed as required pursuant to s. 607.0120, shall be delivered to the department for filing.

(b) May use any alternate name to transact business in this state if its real name is unavailable. Any such alternate corporate name, adopted for use in this state, shall be cross-referenced to the real corporate name in the records of the Division of Corporations. If the corporation's real corporate name becomes available in this state or the corporation chooses to change its alternate name, a copy of the resolution of its board of directors changing or withdrawing the alternate name, executed as required by s. 607.0120, shall be delivered for filing.

(2) A foreign corporation that adopts an alternate name under subsection (1) and obtains a certificate of authority with the alternate name need not comply with s. 865.09 with respect...
to the alternate name. The corporate name (including the
alternate name) of a foreign corporation must be distinguishable
upon the records of the Division of Corporations from:
(a) Any corporate name of a corporation incorporated or
authorized to transact business in this state;
(b) The alternate name of another foreign corporation
authorized to transact business in this state;
(c) The corporate name of a not-for-profit corporation
incorporated or authorized to transact business in this state;
and
(d) The names of all other entities or filings, except
fictitious name registrations pursuant to § 865.09, organized
or registered under the laws of this state that are on file with
the Division of Corporations.
(3) So long as a foreign corporation maintains a
certificate of authority with an alternate name, a foreign
corporation shall transact business in this state under the
alternate name unless the corporation is authorized under §
865.09 to transact business in this state under another name.
(4) If a foreign corporation authorized to transact
business in this state changes its corporate name to one that
does not comply with the requirements of § 607.0401, it
may not thereafter transact business in this state under the
changed name until it complies with subsection (1) adopts a name
satisfying the requirements of § 607.0401 and obtains an
amended certificate of authority under § 607.1504.
(5) Notwithstanding the foregoing, a foreign corporation
may register under a name that is not otherwise distinguishable
on the records of the department with the written consent of the
other entity if the consent is filed with the department at the
time of registration of such name and if such name is not
identical to the name of the other entity.
Section 203. Section 607.1507, Florida Statutes, is amended
to read:
607.1507 Registered office and registered agent of foreign
corporation.—
1. Each foreign corporation authorized to transact
business in this state shall designate and continue to
maintain in this state:
(a) A registered office, which may be the same as that of its
business address or any of its place of business in this
state;
(b) A registered agent, which may be:
1. An individual who resides in this state and whose
business address is identical to the address of office
identical with the registered office;
2. A domestic entity that is an authorized entity and whose
business address is identical to the address of the registered
office; or
3. Another foreign entity authorized to transact business
in this state which is an authorized entity and whose business
address is identical to the address of corporation or not-for-
profit corporation as defined in chapter 617, the business
office of which is identical with the registered office;
4. Another foreign corporation or foreign not-for-profit
corporation authorized pursuant to this chapter or chapter 617,
to transact business or conduct its affairs in this state the
business office of which is identical with the registered
(2) This section does not apply to corporations that are required by law to designate the Chief Financial Officer as their attorney for service of process, associations subject to the provisions of chapter 665, and banks and trust companies subject to the financial institutions codes.

(3) Each initial registered agent, and each successor registered agent that is appointed, shall accept, the obligations of that position.

(d) The street address of its current registered office for its current registered agent.

(4) The duties of a registered agent are as follows:

(a) To forward to the foreign corporation at the address most recently supplied to the registered agent by the foreign corporation, a process, notice, or demand pertaining to the foreign corporation which is served on or received by the registered agent; and

(b) If the registered agent resigns, to provide the notice required under s. 607.1509 to the foreign corporation at the address most recently supplied to the registered agent by the foreign corporation.

(5) The department shall maintain an accurate record of the foreign corporation.
(e) If the street address of the current registered office is to be changed, the new street address of the registered office shall be included in or attached to the statement of change. A statement of change is effective when filed by the department.

The changes described in this section may also be made on the foreign corporation’s annual report or in an application for reinstatement filed with the department under s. 607.1622 if a registered agent changes the street address of her or his business office, she or he may change the street address of the registered office of any foreign corporation for which she or he is the registered agent by notifying the corporation in writing.

Section 205. Section 607.1509, Florida Statutes, is amended to read:

607.1509 Resignation of registered agent of foreign corporation.—

(1) A registered agent may resign as agent for a foreign corporation by delivering to the department for filing a signed statement of resignation containing the name of the foreign corporation. The registered agent of a foreign corporation may resign his or her agency appointment by signing and delivering to the Department of State for filing a statement of resignation and mailing a copy of such statement to the corporation at the corporation’s principal office address shown in its most recent annual report or, if none, shown in its application for a certificate of authority or other most recently filed document. The statement of resignation must state that a copy of such statement has been mailed to the corporation at the address so stated. The statement of resignation may include a statement that the registered office is also discontinued.

(2) After delivering the statement of resignation to the department for filing, the registered agent must promptly mail a copy to the foreign corporation at its current mailing address. The agency appointment is terminated as of the 31st day after the date on which the statement was filed and, unless otherwise provided in the statement, termination of the agency acts as a change that complies with the requirements of paragraphs (1)(a)–(f) and recites that the corporation has been notified of the change.

The name of its current registered agent;

(4) That, after the change or changes are made, the street address of its registered office and the business office of its registered agent will be identical; and

(g) That such change was authorized by resolution duly adopted by its board of directors or by an officer of the corporation so authorized by the board of directors.
A foreign corporation may be served with process required or authorized by law by serving on its registered agent. If a registered agent changes his or her name or address, the agent may deliver to the department for filing a statement of change containing the following:

(a) The name of the foreign corporation represented by the registered agent.
(b) The name of the registered agent as currently shown in the records of the department for the corporation.
(c) If the name of the registered agent has changed, its new name.
(d) If the address of the registered agent has changed, the new address.

If a registered agent resigns from a foreign corporation, the resignation takes effect, the registered agent ceases to have responsibility for a matter thereafter tendered to it as agent for the foreign corporation.

The name of the registered agent as currently shown in the records of the department for the corporation.

A registered agent shall promptly furnish notice of the statement of change and the changes made by the statement filed with the department to the represented foreign corporation.

Section 207. Section 607.15092, Florida Statutes, is created to read:

607.15092 Delivery of notice or other communication.—

(1) Except as otherwise provided in this chapter, permissible means of delivery of a notice or other communication includes delivery by hand, the United States Postal Service, a commercial delivery service, and electronic transmission, all as more particularly described in s. 607.0141.

(2) Except as provided in subsection (3), delivery to the department is effective only when a notice or other communication is received by the department.

(3) If a check is mailed to the department for payment of an annual report fee or the annual supplemental fee required under s. 607.193, the check shall be deemed to have been received by the department as of the postmark date appearing on the envelope or package transmitting the check if the envelope or package is received by the department.

Section 208. Section 607.15101, Florida Statutes, is amended to read:

607.15101 Service of process, notice, or demand on a foreign corporation.—

(1) A foreign corporation may be served with process required or authorized by law by serving on its registered agent.

CODING: Words stricken are deletions; words underlined are additions.
(2) If a foreign corporation ceases to have a registered
corporation agent or if its registered agent cannot with reasonable
diligence be served, the process required or permitted by law
corporation may instead be served on the chair of the board, the president,
any vice president, the secretary, or the treasurer of the
foreign corporation at the principal office of the foreign
corporation in this state.

(3) If the process cannot be served on a foreign
corporation pursuant to subsection (1) or subsection (2), the
process may be served on the secretary of state as an agent of
the foreign corporation.

(4) Service of process on the secretary of state may be
made by delivering to and leaving with the department duplicate
copies of the process.

(5) Service is effectuated under subsection (3) on the date
shown as received by the department.

(6) The department shall keep a record of each process
served on the secretary of state pursuant to this section and
record the time of and the action taken regarding the service.

(7) Any notice or demand on a foreign corporation under
this chapter may be given or made to the chair of the board, the
president, any vice president, the secretary, or the treasurer
of the foreign corporation; to the registered agent of the
foreign corporation at the registered office of the foreign
corporation in this state; or to any other address in this state
that is in fact the principal office of the foreign corporation
in this state.

(8) This section does not affect the right to serve
process, give notice, or make a demand in any other manner

10731
10732
10733
10734
10735
10736
10737
10738
10739
10740
10741
10742
10743
10744
10745
10746
10747
10748
10749
10750
10751
10752
10753
10754
10755
10756
10757
10758
10759

CODING: Words **stricken** are deletions; words __underlined__ are additions.
(f) A mailing address to which the secretary of state may mail a copy of any process served on the secretary of state under paragraph (e).

(g) A commitment to notify the department in the future of any change in its mailing address. A foreign corporation authorized to transact business in this state may not withdraw from this state until it obtains a certificate of withdrawal from the Department of State.

(2) A foreign corporation authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the Department of State for filing. The application shall be made on forms prescribed and furnished by the Department of State and shall set forth:

(a) The name of the foreign corporation and the jurisdiction under the law of which it is incorporated;

(b) That it is not transacting business in this state and that it surrenders its authority to transact business in this state;

(c) That it revokes the authority of its registered agent to accept service on its behalf and appoints the Department of State as its agent for service of process based on a cause of action arising during the time it was authorized to transact business in this state;

(d) A mailing address to which the Department of State may mail a copy of any process served on it under paragraph (e) and

(e) A commitment to notify the Department of State in the future of any change in its mailing address.

(2) After the withdrawal of the foreign corporation is effective, service of process on the secretary of state Department of State under this section is service on the foreign
Withdrawal deemed on conversion to domestic filing entity.—A foreign corporation authorized to transact business in this state that converts to a domestic corporation or another domestic eligible entity that is organized, incorporated, registered, or otherwise formed through the delivery of a record to the department for filing is deemed to have withdrawn its certificate of authority on the effective date of the conversion.

Withdrawal on dissolution, merger, or conversion to certain nonfiling entities.—

(1) A foreign corporation that is authorized to transact business in this state that has dissolved and completed winding up, has merged into a foreign eligible entity that is not authorized to transact business in this state, or has converted to a domestic or foreign eligible entity that is not organized, incorporated, registered or otherwise formed through the public filing of a record, shall deliver a notice of withdrawal of certificate of authority to the department for filing in accordance with s. 607.1520.

(2) After a withdrawal under this section of a foreign corporation that has converted to another type of entity is

Section 210. Section 607.1521, Florida Statutes, is created to read:

607.1521 Withdrawal deemed on conversion to domestic filing entity.—A foreign corporation authorized to transact business in this state that converts to a domestic corporation or another domestic eligible entity that is organized, incorporated, registered, or otherwise formed through the delivery of a record to the department for filing is deemed to have withdrawn its certificate of authority on the effective date of the conversion.

Section 211. Section 607.1522, Florida Statutes, is created to read:

607.1522 Withdrawal on dissolution, merger, or conversion to certain nonfiling entities.—

(1) A foreign corporation that is authorized to transact business in this state that has dissolved and completed winding up, has merged into a foreign eligible entity that is not authorized to transact business in this state, or has converted to a domestic or foreign eligible entity that is not organized, incorporated, registered or otherwise formed through the public filing of a record, shall deliver a notice of withdrawal of certificate of authority to the department for filing in accordance with s. 607.1520.

(2) After a withdrawal under this section of a foreign corporation that has converted to another type of entity is

Section 212. Section 607.1523, Florida Statutes, is created to read:

607.1523 Action by Department of Legal Affairs.—The Department of Legal Affairs may maintain an action to enjoin a foreign corporation from transacting business in this state in violation of this chapter.

Section 213. Section 607.1530, Florida Statutes, is amended to read:

607.1530 Grounds for Revocation of certificate of authority to transact business.—

(1) A foreign corporation authorized to transact business in this state that has dissolved and completed winding up, has merged into a foreign eligible entity that is not authorized to transact business in this state, or has converted to a domestic or foreign eligible entity that is not organized, incorporated, registered or otherwise formed through the public filing of a record, shall deliver a notice of withdrawal of certificate of authority to the department for filing in accordance with s. 607.1520.

(2) After a withdrawal under this section of a foreign corporation that has converted to another type of entity is

CODING: Words are deletions; words are additions.
The foreign corporation has failed to answer.

(i)(7) The foreign corporation has failed to answer.

1. The registered agent files a statement of change under s. 607.15091; or

2. The change was made in accordance with s. 607.1508(4) or s. 607.1504(1)(c);

(e) The foreign corporation has failed to amend its certificate of authority to reflect a change in its name on the records of the department or its jurisdiction of incorporation;

(f) The foreign corporation’s period of duration stated in its articles of incorporation has expired; notify the Department of State under s. 607.1508 or s. 607.1509 that its registered agent has resigned or that its registered office has been discontinued within 30 days of the resignation or discontinuance.

(g) An incorporator, director, officer, or agent of the foreign corporation signs a document that she or he knew was false in a material respect with the intent that the document be delivered to the Department of State for filing;

(h) The department of State receives a duly authenticated certificate from the Secretary of State or other official having custody of corporate records in the jurisdiction under the law of which the foreign corporation is incorporated stating that it has been dissolved or is no longer active on the official’s records; or disappeared as a result of a merger.

(i) The foreign corporation has failed to answer truthfully and fully, within the time prescribed by this chapter, interrogatories propounded by the department of State.

(2) Revocation of a foreign corporation’s certificate of authority for failure to file an annual report shall occur on the fourth Friday in September of each year. The department shall issue a notice in a record of the revocation to the revoked foreign corporation. Issuance of the notice may be by electronic transmission to a foreign corporation that has provided the department with an e-mail address.

(3) If the department determines that one or more grounds exist under paragraph (1)(b) for revoking a foreign corporation’s certificate of authority, the department shall issue a notice in a record of the foreign corporation of the department’s intent to revoke the certificate of authority. Issuance of the notice may be by electronic transmission to a foreign corporation that has provided the department with an e-mail address.

(4) If, within 60 days after the department sends the notice of intent to revoke in accordance with subsection (3), the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the department that each ground determined by the department does not exist, the department shall revoke the foreign corporation’s authority to transact business in this state and issue a notice in a record of revocation which states the grounds for revocation. Issuance of the notice may be by electronic transmission to a foreign corporation that has provided the department with an e-mail address.

(5) Revocation of a foreign corporation’s certificate of authority for failure to transact business in this state and issue a notice in a record of revocation shall occur on the fourth Friday in September of each year.

1. The registered agent files a statement of change under s. 607.15091; or

2. The change was made in accordance with s. 607.1508(4) or s. 607.1504(1)(c);

(e) The foreign corporation has failed to amend its certificate of authority to reflect a change in its name on the records of the department or its jurisdiction of incorporation;

(f) The foreign corporation’s period of duration stated in its articles of incorporation has expired; notify the Department of State under s. 607.1508 or s. 607.1509 that its registered agent has resigned or that its registered office has been discontinued within 30 days of the resignation or discontinuance.

(g) An incorporator, director, officer, or agent of the foreign corporation signs a document that she or he knew was false in a material respect with the intent that the document be delivered to the Department of State for filing;

(h) The department of State receives a duly authenticated certificate from the Secretary of State or other official having custody of corporate records in the jurisdiction under the law of which the foreign corporation is incorporated stating that it has been dissolved or is no longer active on the official’s records; or disappeared as a result of a merger.

(i) The foreign corporation has failed to answer truthfully and fully, within the time prescribed by this chapter, interrogatories propounded by the department of State.
authority does not terminate the authority of the registered agent of the corporation.

Section 214. Section 607.1531, Florida Statutes, is repealed.

Section 215. Section 607.15315, Florida Statutes, is amended to read:

607.15315 Revocation, application for Reinstatement

(1) A foreign corporation the certificate of authority of which has been revoked pursuant to s. 607.1530 or former s. 607.1531 may apply to the department of state for reinstatement at any time after the effective date of revocation of authority.

The foreign corporation applying for reinstatement must submit all fees and penalties then owed by the foreign corporation at rates provided by law at the time the foreign corporation applies for reinstatement, together with a current annual report, signed by both the registered agent and an officer or director of the corporation, which contains the information described in subsection (1), a foreign corporation whose certificate of authority has been revoked may apply for reinstatement as described in subsection (1), a foreign corporation whose certificate of authority has been revoked may submit all fees and penalties owed by the corporation at the rates provided by law at the time the corporation applies for reinstatement, together with a current annual report, signed by both the registered agent and an officer or director of the corporation, which contains the information described in subsection (1).

(3) If the department determines that an application for reinstatement contains the information required under subsection (1) or subsection (2) and that the information is correct, upon payment of all required fees and penalties, the department shall reinstate the foreign corporation’s certificate of authority in this state.

(a) Recite the name under which the foreign corporation is authorized to transact business in this state, and the effective date of its revocation of authority.

(b) The street address of the corporation’s principal office and mailing address; state that the ground or grounds for revocation of authority either did not exist or have been eliminated and that no further grounds currently exist for revocation of authority;

(c) The jurisdiction of the foreign corporation’s formation and the date on which it became qualified to transact business in this state.

(d) The foreign corporation’s federal employer identification number or, if none, whether one has been applied for.

(e) The name, title or capacity, and address of at least one officer or director of the corporation.

(f) Additional information that is necessary or appropriate to enable the department to carry out this chapter.

(2) In lieu of the requirement to file an application for reinstatement as described in subsection (1), a foreign corporation whose certificate of authority has been revoked may submit all fees and penalties owed by the corporation at the rates provided by law at the time the corporation applies for reinstatement, together with a current annual report, signed by both the registered agent and an officer or director of the corporation, which contains the information described in subsection (1).

As an alternative, the foreign corporation may submit a current annual report, signed by the registered agent and an
officer or director, which substantially complies with the requirements of paragraph (1).

(2) If the Department of State determines that the application contains the information required by subsection (1) and that the information is correct, it shall cancel the certificate of revocation of authority and prepare a certificate of reinstatement that recites its determination and prepare a certificate of reinstatement, file the original of the certificate, and serve a copy on the corporation under s. 607.0504(1).

(4) When a reinstatement becomes effective, it relates back to and takes effect as of the effective date of the revocation of authority and the foreign corporation may operate in this state as if the revocation of authority had never occurred.

(5) The name of the foreign corporation whose certificate of authority has been revoked is not available for assumption or use by another eligible entity corporation until 1 year after the effective date of revocation unless the corporation provides the department with a record signed or affidavit executed as required by s. 607.0120 which authorizes permitting the immediate assumption or use of the name by another eligible entity corporation.

(6) If the name of the foreign corporation applying for reinstatement has been lawfully assumed in this state by another eligible entity, the department, the Department of State shall require the foreign corporation to comply with s. 607.1506 before accepting its application for reinstatement.

Section 216. Section 607.1532, Florida Statutes, is amended to read:

607.1532 Judicial review of denial of reinstatement. Appeal from revocation.—

(1) If the department denies a foreign corporation’s application for reinstatement after revocation of its certificate of authority, the department shall serve the foreign corporation under s. 607.15101 with a written notice that explains the reason or reasons for the denial of the department’s notice of revocation of authority to transact business in this state pursuant to the provisions of this act, such foreign corporation may likewise appeal to the circuit court of the county where the registered office of such corporation in this state is situated by filing with the clerk of such court a petition setting forth a copy of its application for authority to transact business in this state and a copy of the certificate of revocation given by the Department of State, whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the Department of State or direct the department to take such action as the court deems proper.

(2) Within 30 days after service of a notice of denial of reinstatement, a foreign corporation may appeal the denial by petitioning the Circuit Court of Leon County to set aside the revocation. The petition must be served on the department and contain a copy of the department’s notice of revocation, the foreign corporation’s application for reinstatement, and the department’s notice of denial. Appeals from all final orders and judgments entered by the circuit court under this section in review of any ruling or decision of the Department of State may
Florida Senate - 2019

590-03467A-19 2019892c2
Page 383 of 458

11079 be taken as in other civil actions.
11080 (3) The circuit court may order the department to reinstate
11081 the certificate of authority of the foreign corporation or take
11082 action the court considers appropriate.
11083 (4) The circuit court’s final decision may be appealed as
11084 in other civil proceedings.

Section 217. Section 607.1601, Florida Statutes, is amended
11086 to read:

607.1601 Corporate records.—
11087 (1) A corporation shall maintain the following records:
11088 keep as permanent records minutes of all meetings of its
11089 shareholders and board of directors, a record of all actions
11090 taken by the shareholders or board of directors without a
11091 meeting, and a record of all actions taken by a committee of
11092 directors in place of the board of directors on behalf of
11093 the corporation.

(2) A corporation shall maintain accurate accounting
11095 records.

(3) A corporation or its agent shall maintain a record of
11099 its shareholders in a form that permits preparation of a list of
11099 the names and addresses of all shareholders in alphabetical
11100 order by class of shares showing the number and series of shares
11100 held by each.

(4) A corporation shall maintain its records in written
11103 form or in another form capable of conversion into written form
11104 within a reasonable time.

(5) A corporation shall keep a copy of the following
11106 records:

(a) Its articles or restated articles of incorporation, as

Page 383 of 458
CODING: Words **stricken** are deletions; words **underlined** are additions.

Florida Senate - 2019

Page 384 of 458
CODING: Words **stricken** are deletions; words **underlined** are additions.
A shareholder of a corporation is entitled to inspect and copy, during regular business hours at a reasonable location and for a proper purpose, any of the following records of the corporation if the shareholder meets the requirements of subsection (3) and gives the corporation written notice of the shareholder’s purpose and the records the shareholder wishes to inspect and copy:

(a) Excerpts from minutes of any meeting of the board of directors while acting in place of the board of directors or on behalf of the corporation, minutes of any meeting of the shareholders, and records of action taken by the board of directors or board committees without a meeting, to the extent not subject to inspection under subsection (1);

(b) The financial statements of the corporation maintained in accordance with s. 607.1602(1);

(c) Accounting records of the corporation;

(d) The record of shareholders maintained in accordance with s. 607.1601(4) and s. 607.1601(1), excluding minutes of meetings of, and records of actions taken without a meeting by, the corporation’s board of directors and any board committees established under s. 607.0825, or s. 607.1601(1) if the shareholder gives the corporation written notice of the shareholder’s purpose and has demand at least 5 business days before the date on which the shareholder wishes to inspect and copy.

(e) Any other books and records.

(3) A shareholder may inspect and copy the records described in subsection (2) only if:

(a) The shareholder’s demand is made in good faith and for a proper purpose;

(b) The shareholder’s description of the shareholder’s purpose describes with reasonable particularity the shareholder’s purpose and the records the shareholder wishes to inspect; and
(6) The right of inspection granted by this section may not be abolished or limited by a corporation’s articles of incorporation or bylaws.

(7) This section does not affect:

(a) The right of a shareholder to inspect and copy records under s. 607.0720 or, if the shareholder is in litigation with the corporation, to the same extent as any other litigant; or

(b) The power of a court, independently of this chapter, to compel the production of corporate records for examination and to impose reasonable restrictions as provided in s. 607.1604(3), provided that, in the case of production of records described in subsection (2) at the request of the shareholder, the shareholder has met the requirements of subsection (3).

(8) A corporation may deny any demand for inspection made pursuant to subsection (2) if the demand was made for an improper purpose, or if the demanding shareholder has within 2 years preceding his or her demand sold or offered for sale any list of shareholders of the corporation or any other corporation, has aided or abetted any person in procuring any list of shareholders for any such purpose, or has improperly used any information secured through any prior examination of the records of the corporation or any other corporation.

(9) A shareholder may not sell or otherwise distribute any information or records inspected under this section, except to the extent that such use is for a proper purpose as defined in subsection (11) and any person who violates this provision shall be subject to a civil penalty of $5,000.

(10) For purposes of this section, the term "shareholder" means a record shareholder, a beneficial shareowner.
shareholder, or an unrestricted voting trust beneficial owner includes a beneficial owner whose shares are held in a voting trust or by a nominee on his or her behalf.

(11) For purposes of this section, a “proper purpose” means a purpose reasonably related to such person’s interest as a shareholder.

(12) The rights of a shareholder to obtain records under subsections (1) and (2) shall also apply to the records of subsidiaries of the corporation.

Section 219. Section 607.1603, Florida Statutes, is amended to read:

607.1603 Scope of inspection right.—

(1) A shareholder may appoint an agent or attorney to exercise the shareholder’s inspection and copying rights under s. 607.1602 shareholder’s agent or attorney has the same inspection and copying rights as the shareholder he or she represents.

(2) The corporation may, if reasonable, satisfy the right of a shareholder to copy records under s. 607.1602 by furnishing to the shareholder copies made by photocopy or other means chosen by the corporation, including furnishing copies through an electronic transmission includes, if reasonable, the right to receive copies made by photographic, xerographic, or other means.

(3) The corporation may impose a reasonable charge to cover the costs of providing copies of any documents to the shareholder which may be based on an estimate of such costs, covering the costs of labor and material, for copies of any documents provided to the shareholder. The charge may not exceed the estimated cost of production or reproduction of the records.

If the records are kept in other than written form, the corporation shall convert such records into written form upon the request of any person entitled to inspect the same. The corporation shall bear the costs of converting any records described in s. 607.1601(5). The requesting shareholder shall bear the costs, including the cost of compiling the information requested, incurred to convert any records described in s. 607.1602(4).

(4) If requested by a shareholder, The corporation may comply at its expense shall comply with a shareholder’s demand to inspect the records of shareholders under s. 607.1602(2)(d) by providing the shareholder with a list of the shareholders that compiled no earlier than the date of the shareholder’s demand of the nature described in s. 607.1601(3). Such a list must be compiled as of the last record date for which it has been compiled or as of a subsequent date if specified by the shareholder.

Section 220. Section 607.1604, Florida Statutes, is amended to read:

607.1604 Court-ordered inspection.—

(1) If a corporation does not allow a shareholder who complies with s. 607.1602(1) or (4) to inspect and copy any records required by that subsection to be available for inspection, the circuit court in the applicable county where the corporation’s principal office (or, if none in this state, its registered office) is located may summarily order inspection and copying of the records demanded at the corporation’s expense upon application of the shareholder. If the court orders

Page 390 of 458

CODING: Words stricken are deletions; words underlined are additions.
inspection and copying of the records demanded under s. 607.1601(1), it shall also order the corporation to pay the shareholder’s expenses, including reasonable attorney fees, incurred to obtain the order and enforce its rights under this section.

(2) If a corporation does not within a reasonable time allow a shareholder who complies with s. 607.1602(2) to inspect and copy the records required by that section any other record, the shareholder who complies with s. 607.1602(3) a. 607.1602(2), and (3) may apply to the circuit court in the applicable county where the corporation’s principal office (or, if none in this state, its registered office) is located for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

(3) If the court orders inspection and or copying of the records demanded under s. 607.1602(2), it may impose reasonable restrictions on the disclosure, use, or distribution of, and reasonable obligations to maintain the confidentiality of, such records, and it shall also order the corporation to pay the shareholder’s expenses incurred costs, including reasonable attorney attorney’s fees, reasonably incurred to obtain the order and enforce its rights under this section unless the corporation establishes that the corporation or the officer, director, or agent, as the case may be, proves that it or she or he was refused inspection in good faith because the corporation or the officer, director, or agent, as the case may be, had:

(a) A reasonable basis for doubt about the right of the shareholder to inspect or copy the records demanded; or

(b) Required If the court orders inspection or or copying of the records demanded, it may impose reasonable restrictions on the disclosure, use, or distribution of, and reasonable obligations to maintain the confidentiality of, such the records demanded to which the demanding shareholder had been unwilling to agree.

Section 221. Section 607.1605, Florida Statutes, is amended to read:

607.1605 Inspection rights of records by directors.—

(1) A director of a corporation is entitled to inspect and copy the books, records, and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the director’s duties as a director, including duties as a member of a board committee, but not for any other purpose or in any manner that would violate any duty to the corporation.

(2) The circuit court of the applicable county in which the corporation’s principal office or, if none in this state, its registered office is located may order inspection and copying of the books, records, and documents at the corporation’s expense, upon application of a director who has been refused such inspection rights, unless the corporation establishes that the director is not entitled to such inspection rights. The court shall dispose of an application under this subsection on an expedited basis.

(3) If an order is issued, the court may include provisions protecting the corporation from undue burden or expense and prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate
a duty to the corporation, and may also order the corporation to reimburse the director for the director's costs, including reasonable attorney counsel fees, incurred in connection with the application.

Section 222. Section 607.1620, Florida Statutes, is amended to read:

607.1620 Financial statements for shareholders.—

(1) Upon the written request of any shareholder, a corporation shall deliver or make available to the requesting shareholder the corporation's annual financial statements for the most recent fiscal year of the corporation. Unless modified by resolution of the shareholders within 120 days of the close of each fiscal year, a corporation shall furnish its shareholders annual financial statements which may be consolidated or combined statements of the corporation and one or more of its subsidiaries, as appropriate. If the annual financial statements are prepared on the basis of generally accepted accounting principles for such specified period, the corporation shall also be prepared on that basis.

(2) If the annual financial statements to be delivered or made available to the requesting shareholder are audited or otherwise reported upon by a public accountant, the report of the public accountant shall also be delivered or made available to the requesting shareholder. His or her report must accompany them. If not, the statements must be accompanied by a statement of the president or the person responsible for the corporation's accounting records stating his or her reasonable belief whether the statements were prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation; and

(b) Describing any respects in which the statements were not prepared on a basis of accounting consistent with the statements prepared for the preceding year.

(3) A corporation required by subsection (1) to deliver or make available annual financial statements to a requesting shareholder shall deliver or make available such annual financial statements to such shareholder within 5 business days after the request if the annual financial statements have already been prepared and are available, or, if the annual financial statements have not been prepared, must notify the shareholder within 5 business days that the annual financial statements have not yet been prepared, and must deliver or make available such annual financial statements to the shareholders if, for reasons beyond the corporation's control, it is unable to prepare its annual financial statements within the prescribed period. Thereafter as is reasonably necessary to enable the corporation to prepare its annual financial statements if, for reasons beyond the corporation's control, it is unable to prepare its annual financial statements within the prescribed period.
(3) If requested by the requesting shareholder in its written request under subsection (1), the corporation shall promptly notify all other shareholders that the annual financial statements that have or are to be delivered or made available to the requesting shareholder have been or are being made available to the requesting shareholder and will also be delivered or made available to any other shareholder who makes its own written request to the corporation under subsection (1).

(4) A corporation may fulfill its responsibilities under this section by delivering the specified annual financial statements, by posting the specified annual financial statements on its website, by any other generally recognized means, or in any other manner permitted by the applicable rules and regulations of the United States Securities and Exchange Commission.

(5) Notwithstanding subsections (1), (2), and (3):

(a) As a condition to delivering or making available annual financial statements to any requesting shareholder, the corporation may require the requesting shareholder to agree to reasonable restrictions on the confidentiality, use, and distribution of such annual financial statements; and

(b) The corporation may, if it reasonably determines that the shareholder’s request is not made in good faith or for a proper purpose, decline to deliver or make available such annual financial statements to that shareholder.

(6) If a corporation does not respond to a shareholder’s request for annual financial statements pursuant to this section in accordance with subsection (3) within the applicable period specified in subsection (2):

(a) The requesting shareholder may apply to the circuit court in the applicable county for an order requiring delivery of or access to the requested annual financial statements. The court shall dispose of an application under this subsection on an expedited basis.

(b) If the court orders delivery or access to the requested annual financial statements, it may impose reasonable restrictions on their confidentiality, use, or distribution.

(c) In such proceeding, if the corporation has declined to deliver or make available such annual financial statements because the shareholder had been unwilling to agree to restrictions proposed by the corporation on the confidentiality, use, and distribution of such financial statements, the corporation shall have the burden of demonstrating that the restrictions proposed by the corporation were reasonable.

(d) In such proceeding, if the corporation has declined to deliver or make available such annual financial statements pursuant to s. 607.1620(5)(b), the corporation shall have the burden of demonstrating that it had reasonably determined that the shareholder’s request was not made in good faith or for a proper purpose.

(7) If the court orders delivery or access to the requested annual financial statements it shall order the corporation to pay the shareholder’s expenses, including reasonable attorney fees, incurred to obtain such order unless the corporation establishes that it had refused delivery or access to the requested annual financial statements because the shareholder had refused to agree to reasonable restrictions on the delivery or access of such financial statements.

Page 395 of 458

CODING: Words italicized are deletions; words underlined are additions.
Section 223. Section 607.1621, Florida Statutes, is amended to read:

607.1622 Annual report for department of State.

(1) Each domestic corporation and each foreign corporation authorized to transact business in this state shall deliver to the department for filing an annual report that states the following of State for filing a sworn annual report on such forms as the Department of State prescribes that sets forth:

(a) The name of the corporation or, if a foreign corporation, the name under which the foreign corporation is authorized to transact business in this state and the state or country under the law of which it is incorporated;

(b) The date of its incorporation and, if a foreign corporation, the jurisdiction of its incorporation and the date on which it became qualified to transact business in this state;

(c) The street address of its principal office and the mailing address of the corporation;

(d) The corporation’s federal employer identification number, if any, or, if none, whether one has been applied for;

(e) The names and business street addresses of its directors and principal officers; and

(f) The street address of its registered office and the name of its registered agent at that office in this state;

Language permitting a voluntary contribution of $5 per taxpayer, which contribution shall be transferred into the Election Campaign Financing Trust Fund. A statement providing an explanation of the purpose of the trust fund shall also be included; and

Section 224. Section 607.1622, Florida Statutes, is amended.
(f)  Any additional information that the department has identified as necessary or appropriate to enable the department of State to carry out the provisions of this chapter act.

(2)  If an annual report contains the name and address of a registered agent which differs from the information shown in the records of the department immediately before the annual report becomes effective, the differing information in the annual report is considered a statement of change under s. 607.0502.

Proof to the satisfaction of the Department of State that on or before May 1 such report was deposited in the United States mail in a sealed envelope, properly addressed with postage prepaid, shall be deemed in compliance with this requirement.

(3)  If an annual report does not contain the information required in this section, the department of State shall promptly notify the reporting domestic corporation or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required in subsection (1) by this section and delivered to the department of State within 30 days after the effective date of the notice, it will be considered timely filed.

(4)  Each report shall be executed by the corporation by an officer or director, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee, and the signing thereof shall have the same legal effect as if made under oath, without the necessity of appending such oath thereto.

(5)  The first annual report must be delivered to the Department of State between January 1 and May 1 of the year following the calendar year in which a domestic corporation’s articles of incorporation became effective or a foreign corporation obtained its certificate of authority to transact business in this state.

Subsequent annual reports must be delivered to the Department of State between January 1 and May 1 of each calendar year thereafter. If one or more forms of annual report are submitted for a calendar year, the department shall file each of them and make the information contained in them part of the official record. The first form of annual report filed in a calendar year shall be considered the annual report for the calendar year, and each report filed after that in the same calendar year shall be treated as an amended report for that calendar year.

(6)  Information in the annual report must be current as of the date the annual report is delivered to the department for filing executed on behalf of the corporation.

(7)  If an additional updated report is received, the department shall file the document and make the information contained therein part of the official record.

(8)  A domestic corporation or foreign corporation that fails any corporation failing to file an annual report that complies with the requirements of this section may not prosecute or maintain any action in any court of this state until the report is filed and all fees and penalties are due under this chapter act are paid, and shall be subject to dissolution or cancellation of its certificate of authority to transact business in this state.

Penalties.
Section 226. Section 607.1702, Florida Statutes, is amended to read:

(1) As a condition of a conversion of an entity to a corporation domesticating into a foreign jurisdiction under s. 607.11930, the entity, if it exists under the laws of this state or if it exists under the laws of another jurisdiction and has a certificate of authority to transact business or conduct its affairs in this state, must be active and current in filing its annual reports in the records of the department through December 31 of the calendar year in which the articles of conversion are submitted to the department for filing.

(2) As a condition of a merger under s. 607.1101, each party to the merger which exists under the laws of another jurisdiction and has a certificate of authority to transact business or conduct its affairs in this state, must be active and current in filing its annual reports in the records of the department through December 31 of the calendar year in which the articles of merger are submitted to the department for filing.

(3) As a condition of a conversion of a domestic corporation under s. 607.11930, the entity, if it exists under the laws of this state or if it exists under the laws of another jurisdiction and has a certificate of authority to transact business or conduct its affairs in this state, must be active and current in filing its annual reports in the records of the department through December 31 of the calendar year in which the articles of conversion are submitted to the department for filing.

(4) As a condition of a conversion of a domestic corporation to another type of entity under s. 607.11930, the domestic corporation converting to the other type of entity must be active and current in filing its annual reports in the records of the department through December 31 of the calendar year in which the articles of conversion are submitted to the department for filing.

(5) As a condition of a conversion of a domestic corporation to a foreign jurisdiction under s. 607.11920, the domestic corporation converting to the other type of entity must be active and current in filing its annual reports in the records of the department through December 31 of the calendar year in which the articles of conversion are submitted to the department for filing.

(6) As a condition of a share exchange which exists under the laws of another jurisdiction and has a certificate of authority to transact business or conduct its affairs in this state, each party to the share exchange which exists under the laws of this state, and each other entity that is a party to the share exchange, if it exists under the laws of this state or if it exists under the laws of another jurisdiction and has a certificate of authority to transact business or conduct its affairs in this state, must be active and current in filing its annual reports in the records of the department through December 31 of the calendar year in which the articles of share exchange are submitted to the department for filing.

(7) The department shall prescribe the forms, which may be in an electronic format, on which to make the annual report called for in this section and may vary such forms and the uniform business report, pursuant to s. 606.06, as a means of satisfying the requirement of this section.

(8) As a condition of a domestication of a domestic corporation converting to the other type of entity under s. 607.1192, the articles of domestication are submitted to the department for filing.

(9) As a condition of a share exchange in which the laws of this state, and each other entity that is a party to the share exchange, if it exists under the laws of another jurisdiction and has a certificate of authority to transact business or conduct its affairs in this state, must be active and current in filing its annual reports in the records of the department through December 31 of the calendar year in which the articles of share exchange are submitted to the department for filing.

(10) As a condition of a share exchange under s. 607.1192 with a corporation and another entity under s. 607.1102, the articles of merger are submitted to the department for filing.

(11) As a condition of a domestication under s. 607.1102, the corporation and each other entity that is a party to the share exchange which exists under the laws of this state, and each party to the share exchange which exists under the laws of another jurisdiction and has a certificate of authority to transact business or conduct its affairs in this state, must be active and current in filing its annual reports in the records of the department through December 31 of the calendar year in which the articles of share exchange are submitted to the department for filing.

(12) As a condition of domestication of a domestic corporation into a foreign jurisdiction under s. 607.11920, the domestic corporation converting to the other type of entity must be active and current in filing its annual reports in the records of the department through December 31 of the calendar year in which the articles of domestication are submitted to the department for filing.

Section 225. Section 607.1701, Florida Statutes, is amended to read:

607.1701 Application to existing domestic corporation.—This chapter applies to all domestic corporations in existence on January 1, 2020, that were incorporated under any general statute of this state providing for incorporation of corporations for profit if power to amend or repeal the statute under which the corporation was incorporated was reserved.

Section 226. Section 607.1702, Florida Statutes, is amended to read:
590-03467A-19 2019892c2

Florida Senate - 2019 CS for CS for SB 892

590-03467A-19 2019892c2

Page 403 of 458

CODING: Words [stricken] are deletions; words [underlined] are additions.

590-03467A-19 2019892c2

Florida Senate - 2019 CS for CS for SB 892

Page 404 of 458

CODING: Words [stricken] are deletions; words [underlined] are additions.
Florida Senate - 2019 CS for CS for SB 892

merger, domestication, or conversion or if the exchanging entity is, or will be, a social purpose corporation.

(3) If an entity elects to become a social purpose corporation by amendment of the articles of incorporation or by a merger, conversion, or share exchange, the shareholders of the entity are entitled to appraisal rights under and pursuant to ss. 607.1301-607.1340 and 607.1333.

Section 232. Subsections (2) and (3) of section 607.604, Florida Statutes, are amended to read:

607.604 Election of benefit corporation status.—

(2) A plan of merger, domestication, conversion, or share exchange must be adopted by the minimum status vote if an entity that is not a benefit corporation is a party to a merger, domestication, conversion, or share exchange in a share exchange and the surviving, new, or resulting entity is, or will be, a benefit corporation.

(3) If an entity elects to become a benefit corporation by amendment of the articles of incorporation or by a merger, domestication, conversion, or share exchange, the shareholders of the entity are entitled to appraisal rights under and pursuant to ss. 607.1301-607.1340 and 607.1333.

Section 233. Paragraph (b) of subsection (23) and subsections (55) and (58) of section 605.0102, Florida Statutes, are amended to read:

605.0102 Definitions.—As used in this chapter, the term:

(b) "Entity" does not include:

1. An individual;
includes the following:

(a) The articles of incorporation of a business corporation.

(b) The articles of incorporation of a nonprofit corporation.

(c) The certificate of limited partnership of a limited partnership.

(d) The articles of organization of a limited liability company.

(e) The articles of incorporation of a general cooperative association or a limited cooperative association.

(f) The certificate of trust of a statutory trust or similar record of a business trust.

(g) The articles of incorporation of a real estate investment trust.

Section 234. Paragraph (i) of subsection (3) of section 605.0105, Florida Statutes, is amended to read:

605.0105 Operating agreement; scope, function, and limitations.—

(3) An operating agreement may not do any of the following:

(i) Vary the grounds for dissolution specified in s. 605.0702. Neither a deadlock resolution mechanism nor an oppressive action sale varies the grounds for dissolution for the purposes of this paragraph.

Section 235. Paragraphs (a) and (b) of subsection (1) of section 605.0112, Florida Statutes, are amended, and subsection (6) is added to that section, to read:

605.0112 Name.—

(i) The name of a limited liability company:
590-03467A-19

11833 partnership, corporation, or other business entity may continue
11834 using such name until the limited liability company dissolves or
11835 amends its name in the records of the department.
11836 Section 236. Section 605.01125, Florida Statutes, is
11837 created to read:
11838 605.01125 Reserved name.—
11839 (1) A person may reserve the exclusive use of the name of a
11840 limited liability company, including an alternate name for a
11841 foreign limited liability company whose name is not available,
11842 by delivering an application to the department for filing. The
11843 application must set forth the name and address of the applicant
11844 and the name proposed to be reserved. If the department finds
11845 that the name of the limited liability company applied for is
11846 available, it must reserve the name for the applicant’s
11847 exclusive use for a nonrenewable 120-day period.
11848 (2) The owner of a reserved name of a limited liability
11849 company may transfer the reservation to another person by
11850 delivering to the department a signed notice of the transfer
11851 that states the name and address of the transferee.
11852 (3) The department may revoke any reservation if, after a
11853 hearing, it finds that the application therefor or any transfer
11854 thereof was not made in good faith.
11855 Section 237. Subsections (1) and (5) of section 605.0113,
11856 Florida Statutes, are amended, and subsection (6) is added to
11857 that section, to read:
11858 605.0113 Registered agent.—
11859 (1) Each limited liability company and each foreign limited
11860 liability company that has a certificate of authority under s.
11861 605.0902 shall designate and continuously maintain in this

590-03467A-19

11862 state:
11863 (a) A registered office, which may be the same as its place
11864 of business in this state; and
11865 (b) A registered agent, who must be:
11866 1. An individual who resides in this state and whose
11867 business address is identical to the address of the registered
11868 office; or
11869 2. Another domestic entity that is an authorized entity and
11870 whose business address is identical to the address of the
11871 registered office; or
11872 3. A foreign entity authorized to transact business in this
11873 state that is an authorized entity and a foreign or domestic
11874 entity authorized to transact business in this state whose
11875 business address is identical to the address of the registered
11876 office.
11877 (5) A limited liability company and each foreign limited
11878 liability company that has a certificate of authority under s.
11879 605.0902 may not prosecute or maintain, maintain, or defend an
11880 action in a court in this state until the limited liability
11881 company complies with this section, pays to the department any
11882 amounts required under this chapter, and, to the extent ordered
11883 by a court of competent jurisdiction, and pays to the department
11884 a penalty of $5 for each day it has failed to comply or $500,
11885 whichever is less, and pays any other amounts required under
11886 this chapter.
11887 (6) For the purposes of this section, “authorized entity”
11888 means:
11889 (a) A corporation for profit.
11890 (b) A limited liability company.
section 605.0114, Florida Statutes, are amended to read:

(1) In order to change its registered agent or registered office address, a limited liability company or a foreign limited liability company may deliver to the department for filing a statement of change containing the following:

(c) If the current registered agent is to be changed, the name of the new registered agent.

(d) The street address of its current registered office for its current registered agent.

(e) If the street address of the current registered office is to be changed, the new street address of the registered office in this state.

Section 239. Subsection (2) of section 605.0115, Florida Statutes, is amended to read:

605.0115 Resignation of registered agent.—

(2) After delivering the statement of resignation to the department for filing, the registered agent shall mail a copy to the limited liability company’s or foreign limited liability company’s current mailing address.

Section 240. Paragraphs (b) through (e) of subsection (1) of section 605.0116, Florida Statutes, are amended to read:

(1) If a registered agent changes his or her name or address, the agent may deliver to the department for filing a

statement of change that provides the following:

(b) The name of the registered agent as currently shown in the records of the department for the limited liability company or foreign limited liability company.

(c) If the name of the registered agent has changed, its new name.

(d) If the address of the registered agent has changed, the new address.

(e) A statement that the registered agent has given the notice required under subsection (2).

Section 241. Present subsection (7) of section 605.0117, Florida Statutes, is redesignated as subsection (8), subsections (1), (2), (3), (4), and (6) of that section are amended, and a new subsection (7) is added to that section, to read:

605.0117 Service of process, notice, or demand.—

(1) A limited liability company or registered foreign limited liability company may be served with process, notice, or demand required or authorized by law by serving on its registered agent.

(2) If a limited liability company or registered foreign limited liability company ceases to have a registered agent or if its registered agent cannot with reasonable diligence be served, the process, notice, or demand required or permitted by law may instead be served:

(a) On a member of a member-managed limited liability company or registered foreign limited liability company or

(b) On a manager of a manager-managed limited liability company or registered foreign limited liability company.

(3) If the process, notice, or demand cannot be served on a
limited liability company or registered foreign limited liability company pursuant to subsection (1) or subsection (2), the process, notice, or demand may be served on the secretary of state as an agent of the company.

(4) Service of process on the secretary of state with the process, notice, or a demand on the department may be made by delivering to and leaving with the department duplicate copies of the process, notice, or demand.

(6) The department shall keep a record of each process, notice, and demand served pursuant to this section and record the time of and the action taken regarding the service.

(7) Any notice or demand on a limited liability company or registered foreign limited liability company under this chapter may be given or made to any member of a member-managed limited liability company or registered foreign limited liability company or to any manager of a manager-managed limited liability company or registered foreign limited liability company to the registered agent of the limited liability company or registered foreign limited liability company at the registered office of the limited liability company or registered foreign limited liability company in this state; or to any other address in this state that is in fact the principal office of the limited liability company or registered foreign limited liability company in this state.

Section 242. Subsection (3) of section 605.0118, Florida Statutes, is amended to read:

605.0118 Delivery of record.—

(3) If a check is mailed to the department for payment of an annual report fee or the annual supplemental fee required under s. 607.193, the check shall be deemed to have been received by the department as of the postmark date appearing on the envelope or package transmitting the check if the envelope or package is received by the department.

Section 243. Section 605.0207, Florida Statutes, is amended to read:

605.0207 Effective date and time.—Except as otherwise provided in s. 605.0208, and subject to s. 605.0209(3), any document delivered to the department for filing under this chapter may specify an effective time and a delayed effective date. In the case of initial articles of organization, a prior effective date may be specified in the articles of organization if such date is within 5 business days before the date of filing. Subject to ss. 605.0114, 605.0115, 605.0208, and 605.0209, a record filed by the department is effective:

(1) If the record filed does not specify an effective time and does not specify a prior or a delayed effective date, on the date and at the time the record is accepted as evidenced by the department’s endorsement of the date and time on the filing record.

(2) If the record filed specifies an effective time, but not a prior or delayed effective date, on the date the record is filed at the time specified in the filing record.

(3) If the record filed specifies a delayed effective date, but not an effective time, at 12:01 a.m. on the earlier of:

(a) The specified date; or
(b) The 90th day after the record is filed.

(4) If the record filed specifies a delayed effective date and an effective time, at the specified time on or the earlier
(a) The specified date; or
(b) The 90th day after the record is filed.
(5) If the record filed is the initial articles of organization and specifies an effective date before the effective date of the filing, but no effective time, at 12:01 a.m. on the later of:
(a) The specified date; or
(b) The 5th business day before the record is filed.
(6) If the record filed is the initial articles of organization and specifies an effective time and an effective delayed effective date, at the specified time on the earlier of:
(a) The specified date; or
(b) The 90th day after the record is filed.
(7) If the record specifies an effective time and a prior effective date before the date of the filing, at the specified time on the later of:
(a) The specified date; or
(b) The 5th business day before the record is filed.
(7) If a filed document does not specify the time zone or place at which the date or time, or both, is to be determined, the date or time, or both, at which it becomes effective shall be those prevailing at the place of filing in this state.

Section 244. Subsection (3) of section 605.0209, Florida Statutes, is amended to read:

605.0209 Correcting filed record.—
(3) A statement of correction:
(a) May not state a delayed effective date;
(b) Must be signed by the person correcting the filed record; transmission of information by department.

(c) Must identify the filed record to be corrected, including such record’s filing date, or attach a copy of the record to the statement of correction;
(d) Must specify the inaccuracy or defect to be corrected; and
(e) Must correct the inaccuracy or defect.

Section 245. Subsection (7) of section 605.0210, Florida Statutes, is amended to read:

605.0210 Duty of department to file; review of refusal to file; transmission of information by department.—
(7) If the department refuses to file a record delivered to its office for filing, the person who submitted the record for filing may petition the Circuit Court of Leon County to compel filing of the record. The record and the explanation from the department of the refusal to file must be attached to the petition. The court may decide the matter in a summary proceeding and the court may summarily order the department to file the record or take other action the court considers appropriate. The court’s final decision may be appealed as in other civil proceedings.

Section 246. Paragraph (a) of subsection (2) and subsection (3) of section 605.0211, Florida Statutes, are amended to read:

605.0211 Certificate of status.—
(2) The department, upon request and payment of the requisite fee, shall furnish a certificate of status for a foreign limited liability company if the records filed show that the department has filed a certificate of authority. A certificate of status for a foreign limited liability company...
must state the following:
(a) The foreign limited liability company’s name and any current alternate name adopted under s. 605.0906(1) for use in this state.
(b) A member or manager has an “indirect material financial interest” if a spouse or other family member has a material financial interest in the transaction, other than having an indirect interest as a member or manager of the limited liability company, or if the transaction is with an entity, other than the limited liability company, which has a material financial interest in the transaction and controls, or is controlled by, the member or manager or another person specified in this subsection.

590.04092 Conflict of interest transactions.—
(1) As used in this section, the following terms and definitions apply:
(a) A member or manager is “indirectly” a party to a transaction if that member or manager has a material financial interest in or is a director, officer, member, manager, or partner of a person, other than the limited liability company, who is a party to the transaction.

Section 247. Section 605.0215, Florida Statutes, is amended to read:
605.0215 Certificates to be received in evidence and evidentiary effect of copy of filed document.—All certificates issued by the department in accordance with this chapter shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts stated. A certificate from the department delivered with a copy of a document filed by the department bearing the signature of the secretary of state, which may be in facsimile, and the seal of this state is conclusive evidence that the original document is on file with the department.

Section 248. Subsections (1) through (4) of section 605.04092, Florida Statutes, are amended to read:
605.04092 Conflict of interest transactions.—
(1) As used in this section, the following terms and definitions apply:
(a) A member or manager is “indirectly” a party to a transaction if that member or manager has a material financial interest in or is a director, officer, member, manager, or partner of a person, other than the limited liability company, who is a party to the transaction.
limited liability company’s managers is directly or indirectly a party to the transaction, other than being an indirect party as a result of being a member of the limited liability company, and has a direct or indirect material financial interest or other material interest.

(f) “Material financial interest” or “other material interest” means a financial or other interest in the transaction that would reasonably be expected to impair the objectivity of the judgment of the member or manager when participating in the action on the authorization of the transaction.

(g) “Member’s conflict of interest transaction” means a transaction between a limited liability company and one or more of its members, or another entity in which one or more of the limited liability company’s members is directly or indirectly a party to the transaction, other than being an indirect party as a result of being a member of the limited liability company, and has a direct or indirect material financial interest or other material interest.

(2) If the requirements of this section have been satisfied, a member’s conflict of interest transaction or a manager’s conflict of interest transaction between a limited liability company and one or more of its members or managers, or another entity in which one or more of the limited liability company’s members or managers have a financial or other interest, is not void or voidable because of that relationship or interest; because the members or managers are present at the meeting of the members or managers at which the transaction was authorized, approved, effectuated, or ratified; or because the votes of the members or managers are counted for such purpose.
590-03467A-19 2019892c2

12181 the transaction cannot be authorized, approved, or ratified
12182 under this subsection solely by a single manager; and
12183 2. In a member-managed limited liability company, or a
12184 manager-managed limited liability company in which the managers
12185 have failed to or cannot act under subparagraph 1., the material
12186 facts of the transaction and the member’s or manager’s interest
12187 in the transaction were disclosed or known to the members who
12188 voted upon such transaction and the transaction was authorized,
12189 approved, or ratified by a majority-in-interest of the
12190 disinterested members even if the disinterested members
12191 constitute less than a quorum; however, the transaction cannot
12192 be authorized, approved, or ratified under this subsection
12193 solely by a single manager; or
12194 (b) If neither of the conditions provided in paragraph (a)
12195 has been satisfied, the person defending or asserting the
12196 validity of a member’s conflict of interest transaction or a
12197 manager’s conflict of interest transaction described in
12198 subsection (3) has the burden of proving its fairness in a
12199 proceeding challenging the validity of the transaction.
12200 Section 249. Paragraph (c) of subsection (3) of section
12201 605.0410, Florida Statutes, is amended to read:
12202 605.0410 Records to be kept; rights of member, manager, and
12203 person dissociated to information.—
12204 (3) In a manager-managed limited liability company, the
12205 following rules apply:
12206 (c) Within 10 days after receiving a demand pursuant to
12207 subparagraph (b)2., the company shall, in a record,
12208 inform the member who made the demand of:
12209 1. The information that the company will provide in...

CODING: Words [stricken] are deletions; words [underlined] are additions.
limited liability company is threatened or being suffered.

(2)(a) If the managers or the members of the limited
liability company are deadlocked in the management of the
limited liability company’s activities and affairs, the members
are unable to break the deadlock, and irreparable injury to the
limited liability company is threatened or being suffered, if
the operating agreement contains a deadlock sale provision that
has been initiated before the time that the court determines
that the grounds for judicial dissolution exist under
subsection (1)(b)5., then such deadlock sale provision applies
to the resolution of such deadlock instead of the court entering
an order of judicial dissolution or an order directing the
purchase of petitioner’s interest under s. 605.0706, so long as
the provisions of such deadlock sale provision are thereafter
initiated and effectuated in accordance with the terms of such
deadlock sale provision or otherwise pursuant to an agreement of
the members of the company.

(b) As used in this section, the term “deadlock sale
provision” means a provision in an operating agreement which is
or may be applicable in the event of a deadlock among the
managers or the members of the limited liability company which
the members of the company are unable to break and which
provides for a deadlock breaking mechanism, including, but not
limited to:

1. A redemption or a purchase and sale of interests;
2. A governance change, among or between members;
3. The sale of the company or all or substantially all of
the assets of the company; or
4. A similar provision that, if initiated and effectuated,

breaks the deadlock by causing the transfer of interests, a
governance change, or the sale of all or substantially all of
the company’s assets. A deadlock sale provision in an operating
agreement which is not initiated and effectuated before the
court enters an order of judicial dissolution under subparagraph
(1)(b)5., or an order directing the purchase of petitioner’s
interest under s. 605.0706, does not adversely affect the rights
of members and managers to seek judicial dissolution under
subparagraph (1)(b)5., or the rights of the company or one or
more members to purchase the petitioner’s interest under s.
605.0706. The filing of an action for judicial dissolution on
the grounds described in subparagraph (1)(b)5., or an election to
purchase the petitioner’s interest under s. 605.0706 does not
adversely affect the right of a member to initiate an available
deadlock sale provision under the operating agreement or to
enforce a member-initiated or an automatically-initiated
deadlock sale provision if the deadlock sale provision is
initiated and effectuated before the court enters an order of
judicial dissolution under subparagraph (1)(b)5., or an order
directing the purchase of petitioner’s interest under s.
605.0706.

(3) A proceeding by a member under subparagraph (1)(b)3,
asserting that the members or managers in control of the limited
liability company have acted, are acting, or will act in a
manner that is oppressive may only be brought by a member who,
at the time that such proceeding is commenced, owns at least 10
percent of the outstanding membership interests of the limited
liability company.

(4)(a) In the event of oppressive action that satisfies
subsection (1)(b)3., if the members are subject to an
operating agreement that contains an oppressive action sale
provision, then such oppressive action sale provision shall
address such member asserted oppressive action in lieu of the
court entering an order of judicial dissolution or an order
directing the purchase of petitioner’s interest under s.
605.0706, so long as the provisions of such oppressive action
sale provision are initiated and effectuated within the time
periods specified for the company to act under s. 605.0706 and
in accordance with the terms of such oppressive action sale
provision.

(b) For the purposes of this section, the term “oppressive
action sale provision” means a provision in an operating
agreement that is or may be applicable in the event of a
member’s assertion of the occurrence or existence of oppressive
action which neither the members nor the managers, as
applicable, of the company are able to address and which
provides for a mechanism for addressing the occurrence or
existence of such member asserted oppressive action including,
but not limited to:

1. A redemption or purchase and sale of interests;
2. The sale of the company or of all or substantially all
of the assets of the company; or
3. A similar provision that, if initiated and effectuated,
causes the transfer of interests to be redeemed or purchased and
sold or the sale of the company or of all or substantially all
of the company’s assets.

(5) A deadlock sale provision or an oppressive action sale
provision in an operating agreement which is not initiated and

CODING: Words [stricken] are deletions; words [underlined] are additions.
the petitioner in the company at the fair value of the interest. 

An election pursuant to this section is irrevocable unless the 
court determines that it is equitable to set aside or modify the 
election.

(2) An election to purchase pursuant to this section may be 
filed with the court within 90 days after the filing of the 
petition by the petitioning member under s. 605.0702(1)(b) or 
at such later time as the court may allow. If the 
election to purchase is filed, the company shall within 10 days 
thereafter give written notice to all members, other than the 
petitioning member. The notice must describe the interest in the 
company owned by each petitioning member and must advise the 
recipients of their right to join in the election to purchase 
the petitioning member’s interest in accordance with this 
section. Members who wish to participate must file notice of 
their intention to join in the purchase within 30 days after the 
effective date of the notice. A member who has filed an election 
or notice of the intent to participate in the election to 
purchase thereby becomes a party to the proceeding and shall 
participate in the purchase in proportion to the ownership 
interest as of the date the first election was filed unless the 
members otherwise agree or the court otherwise directs. After an 
election to purchase has been filed by the limited liability 
company or one or more members, the proceeding under s. 
605.0702(1)(b) may not be discontinued or settled, and the 
petitioning member may not sell or otherwise dispose of the 
interest of the petitioner in the company unless the court 
determines that it would be equitable to the company and the 
members, other than the petitioner, to authorize such 

CODING: Words **stricken** are deletions; words _underlined_ are additions.
be equitable; however, if the court finds that the refusal of
the petitioning member to accept an offer of payment was
arbitrary or otherwise not in good faith, payment of interest is
not allowed. If the court finds that the petitioning member had
probable grounds for relief under s. 605.0702(1)(b), (a),
605.0702(1)(b)3., or 4., it may award expenses to the petitioning
member, including reasonable fees and expenses of counsel and of
experts employed by petitioner.

(6) The entry of an order under subsection (3) or
subsection (5) shall be subject to subsection (8), and the order
cannot be entered unless the award is determined by the court
to be allowed under subsection (8). In determining compliance
with s. 605.0405, the court may rely on an affidavit from the
limited liability company as to compliance with that section as
of the measurement date. Upon entry of an order under subsection
(3) or subsection (5), the court shall dismiss the petition to
dissolve the limited liability company under s. 605.0702(1)(b),
and the petitioning member shall no longer have rights or status
as a member of the limited liability company except the right to
receive the amounts awarded by the order of the court, which
shall be enforceable in the same manner as any other judgment.

(7) The purchase ordered pursuant to subsection (5) shall
must be made within 10 days after the date the order becomes
final, unless, before that time, the limited liability company
files with the court a notice of its intention to dissolve
pursuant to s. 605.0701(2), in which case articles of
dissolution for the company must be filed within 50 days
thereafter. Upon filing of such articles of dissolution, the
limited liability company shall be wound up in accordance with

Section 252. Subsection (5) of section 605.0715, Florida
Statutes, is amended, and subsection (6) is added to that
section, to read:

605.0715 Reinstatement.—

(5) The name of the dissolved limited liability company is
not available for assumption or use by another business entity
until 1 year after the effective date of dissolution unless the
dissolved limited liability company provides the department with
a record executed as required pursuant to s. 605.0203 permitting
the immediate assumption or use of the name by another business
t entity limited liability company.

(6) If the name of the dissolved limited liability company
has been lawfully assumed in this state by another business
entity, the department shall require the dissolved limited
liability company to amend its articles of organization to
change its name before accepting the application for

reinstatement.

Section 253. Subsections (2) and (3) of section 605.0716, Florida Statutes, are amended, and subsection (4) is added to that section, to read:

605.0716 Judicial review of denial of reinstatement.—
(2) Within 30 days after service of a notice of denial of reinstatement, a limited liability company may appeal the denial by petitioning the Circuit Court of Leon County in the applicable county, as defined in s. 605.0711(15), to set aside the dissolution. The petition must be served on the department and contain a copy of the department’s notice of administrative dissolution, the company’s application for reinstatement, and the department’s notice of denial.

(3) The circuit court may order the department to reinstate a dissolved limited liability company or take other action the court considers appropriate.

(4) The circuit court’s final decision may be appealed as in other civil proceedings.

Section 254. Section 605.0803, Florida Statutes, is amended to read:

605.0803 Proper plaintiff.—A derivative action to enforce a right of a limited liability company may be commenced only by a person who is a member at the time the action is commenced and:

(1) Was a member when the conduct giving rise to the action occurred; or

(2) Whose status as a member devolved on the person by operation of law or pursuant to the terms of the operating agreement from a person who was a member when at the time of the conduct giving rise to the action occurred.

Florida Statutes, are amended, and subsection (4) is added to that section, to read:

605.0716 Judicial review of denial of reinstatement.—
(2) Within 30 days after service of a notice of denial of reinstatement, a limited liability company may appeal the denial by petitioning the Circuit Court of Leon County in the applicable county, as defined in s. 605.0711(15), to set aside the dissolution. The petition must be served on the department and contain a copy of the department’s notice of administrative dissolution, the company’s application for reinstatement, and the department’s notice of denial.

(3) The circuit court may order the department to reinstate a dissolved limited liability company or take other action the court considers appropriate.

(4) The circuit court’s final decision may be appealed as in other civil proceedings.

Section 254. Section 605.0803, Florida Statutes, is amended to read:

605.0803 Proper plaintiff.—A derivative action to enforce a right of a limited liability company may be commenced only by a person who is a member at the time the action is commenced and:

(1) Was a member when the conduct giving rise to the action occurred; or

(2) Whose status as a member devolved on the person by operation of law or pursuant to the terms of the operating agreement from a person who was a member when at the time of the conduct giving rise to the action occurred.

Florida Statutes, are amended to read:

605.0803 Proper plaintiff.—A derivative action to enforce a right of a limited liability company may be commenced only by a person who is a member at the time the action is commenced and:

(1) Was a member when the conduct giving rise to the action occurred; or

(2) Whose status as a member devolved on the person by operation of law or pursuant to the terms of the operating agreement from a person who was a member when at the time of the conduct giving rise to the action occurred.
Amendment to certificate of authority.—

(2) The amendment must be filed within 90 days after the occurrence of a change described in subsection (1), must be signed by an authorized representative of the foreign limited liability company, and must state the following:

(a) The name of the foreign limited liability company as it appears on the records of the department.

(b) Its jurisdiction of formation.

(c) The date the foreign limited liability company was authorized to transact business in this state.

(d) If the name of the foreign limited liability company has been changed, the name relinquished and its new name.

(e) If the amendment changes the jurisdiction of formation of the foreign limited liability company, a statement of that change.

(4) The requirements of s. 605.0902(2) for obtaining an original certificate of authority apply to obtaining an amended certificate under this section unless the foreign limited liability company subsequently becomes available in this state. If the foreign limited liability company chooses to change its alternate name, a copy of the record approving the change by its members, managers, or other persons having the authority to do so, and executed as required pursuant to s. 605.0203, shall be delivered to the department for filing.

(4) If a foreign limited liability company authorized to transact business in this state changes its name to one that does not comply with s. 605.0112, it may not thereafter transact business in this state until it complies with subsection (1) and obtains an amended certificate of authority pursuant to s. 605.0907.

Section 258. Subsections (2) and (4) of section 605.0907, Florida Statutes, are amended to read:

(2) The amendment must be filed within 90 days after the occurrence of a change described in subsection (1), must be signed by an authorized representative of the foreign limited liability company, and must state the following:

(a) The name of the foreign limited liability company as it appears on the records of the department.

(b) Its jurisdiction of formation.

(c) The date the foreign limited liability company was authorized to transact business in this state.

(d) If the name of the foreign limited liability company has been changed, the name relinquished and its new name.

(e) If the amendment changes the jurisdiction of formation of the foreign limited liability company, a statement of that change.

(4) The requirements of s. 605.0902(2) for obtaining an original certificate of authority apply to obtaining an amended certificate under this section unless the foreign limited liability company subsequently becomes available in this state. If the foreign limited liability company chooses to change its alternate name, a copy of the record approving the change by its members, managers, or other persons having the authority to do so, and executed as required pursuant to s. 605.0203, shall be delivered to the department for filing.

(4) If a foreign limited liability company authorized to transact business in this state changes its name to one that does not comply with s. 605.0112, it may not thereafter transact business in this state until it complies with subsection (1) and obtains an amended certificate of authority pursuant to s. 605.0907.

Florida Senate - 2019 CS for CS for SB 892

Page 433 of 458

CODING: Words are deletions; words are additions.
(b) The foreign limited liability company does not pay a fee or penalty due to the department under this chapter.

c) The foreign limited liability company does not appoint and maintain a registered agent as required under s. 605.0113.

d) The foreign limited liability company does not deliver for filing a statement of a change under s. 605.0114 within 30 days after a change in the name or address of the agent has occurred in the name or address of the agent, unless, within 30 days after the change occurred, either:

1. The registered agent files a statement of change under s. 605.0116; or

2. The change was made in accordance with s. 605.0114(4).

(e) The foreign limited liability company has failed to amend its certificate of authority to reflect a change in its name on the records of the department or its jurisdiction of formation.

(f) The department receives a duly authenticated certificate from the official having custody of records in the company’s jurisdiction of formation stating that it has been dissolved or is no longer active on the official’s records.

(g) The foreign limited liability company’s period of duration has expired.

(h) A member, manager, or agent of the foreign limited liability company signs a document that the member, manager, or agent knew was false in a material respect with the intent that the document be delivered to the department for filing.

(i) The foreign limited liability company has failed to answer truthfully and fully, within the time prescribed in s. 605.0117(7), with a written notice that explains the reason or reasons for the denial.

(2) Within 30 days after service of a notice of denial of reinstatement, a foreign limited liability company may appeal the denial by petitioning the Circuit Court of Leon County to set aside the revocation. The petition must be served on the department and must contain a copy of the department’s notice of revocation, the foreign limited liability company’s application for reinstatement, and the department’s notice of denial.

(3) The circuit court may order the department to reinstate the certificate of authority of the foreign limited liability company or take other action the court considers appropriate.

(4) The circuit court’s final decision may be appealed as in other civil proceedings.

Section 261. Section 605.09091, Florida Statutes, is amended to read:

605.09091 Judicial review of denial of reinstatement.—

1. If the department denies a foreign limited liability company’s application for reinstatement after revocation of its certificate of authority, the department shall serve the foreign limited liability company, pursuant to s. 605.0117(7), with a written notice that explains the reason or reasons for the denial.

2. Within 30 days after service of a notice of denial of reinstatement, a foreign limited liability company may appeal the denial by petitioning the Circuit Court of Leon County to set aside the revocation. The petition must be served on the department and must contain a copy of the department’s notice of revocation, the foreign limited liability company’s application for reinstatement, and the department’s notice of denial.

Judicial review of denial of reinstatement

Judicial review of denial of reinstatement
shall mail a copy of the process to the foreign limited liability company.

Section 262. Section 605.0911, Florida Statutes, is amended to read:

605.0911 Withdrawal deemed on conversion to domestic filing entity.—A registered foreign limited liability entity that is organized, incorporated, registered or otherwise formed through the delivery of a record to the department for filing is deemed to have withdrawn its certificate of authority on the effective date of the conversion.

Section 263. Section 605.0912, Florida Statutes, is amended to read:

605.0912 Withdrawal on dissolution, merger, or conversion to nonfiling entity.—

(1) A registered foreign limited liability company that has dissolved and completed winding up, has merged into a foreign entity that is not authorized to transact business registered in this state, or has converted to a domestic or foreign entity that is not organized, incorporated, registered or otherwise formed through the public filing of a record, shall deliver a notice of withdrawal of certificate of authority to the department for filing in accordance with s. 605.0910.

(2) After a withdrawal under this section of a foreign limited liability company that has converted to another type of entity is effective, service of process in any action or proceeding based on a cause of action arising during the time the foreign limited liability company was authorized to transact business in this state is service on the foreign limited liability company at the mailing address set forth under paragraph (1)(f).

Withdrawal deemed on dissolution, merger, or conversion to nonfiling entity.—

(1) A registered foreign limited liability company that has dissolved and completed winding up, has merged into a foreign entity that is not authorized to transact business registered in this state, or has converted to a domestic or foreign entity that is not organized, incorporated, registered or otherwise formed through the public filing of a record, shall deliver a notice of withdrawal of certificate of authority to the department for filing in accordance with s. 605.0910.

(2) After a withdrawal under this section of a foreign limited liability company that has converted to another type of entity is effective, service of process in any action or proceeding based on a cause of action arising during the time the foreign limited liability company was authorized to transact business in this state is service on the foreign limited liability company at the mailing address set forth under paragraph (1)(f).
Appraisal rights; definitions.—The following definitions apply to this section and to ss. 605.1006 and 605.1025, Florida Statutes, is amended to read:

605.1061 Articles of merger.—

(6) A limited liability company is not required to deliver articles of merger for filing pursuant to subsection (1) if the limited liability company is named as a surviving entity or a surviving entity in articles of merger or a certificate of merger filed for the same merger in accordance with s. 607.1105, s. 607.1108, s. 620.2108(3), or s. 620.8918(3), and if such articles of merger or certificate of merger substantially comply with the requirements of this section. In such a case, the other articles of merger or certificate of merger may also be used for purposes of subsection (5).

605.1062 Articles of interest exchange.—

(5) A limited liability company is not required to deliver articles of interest exchange for filing pursuant to subsection (1) if the domestic limited liability company is named as an acquired entity or as an acquiring entity in the articles of share exchange filed for the same interest exchange in accordance with s. 607.1105, s. 607.1108, or s. 620.8918(3), and if such articles of share exchange substantially comply with the requirements of this section.

Section 264. Subsection (6) of section 605.1025, Florida Statutes, is amended to read:

605.1025 Articles of merger.—

(6) A limited liability company is not required to deliver articles of merger for filing pursuant to subsection (1) if the limited liability company is named as a merging entity or surviving entity in articles of merger or a certificate of merger filed for the same merger in accordance with s. 607.1105, s. 607.1108, s. 620.2108(3), or s. 620.8918(3), and if such articles of merger or certificate of merger substantially comply with the requirements of this section. In such a case, the other articles of merger or certificate of merger may also be used for purposes of subsection (5).

Section 265. Subsection (5) of section 605.1035, Florida Statutes, is amended to read:

605.1035 Articles of interest exchange.—

(5) A limited liability company is not required to deliver articles of interest exchange for filing pursuant to subsection (1) if the domestic limited liability company is named as an acquired entity or as an acquiring entity in the articles of share exchange filed for the same interest exchange in accordance with s. 607.1105, s. 607.1108, or s. 620.8918(3), and if such articles of share exchange substantially comply with the requirements of this section.

Section 266. Subsection (5) of section 605.1061, Florida Statutes, is amended to read:

605.1061 Appraisal rights; definitions.—The following definitions apply to this section and to ss. 605.1025 and 605.1063, Florida Statutes, is amended to read:

605.1063 Notice of appraisal rights.—

(3) If the appraisal event is to be approved by written consent of the members pursuant to s. 605.04073 other than by a members’ meeting:

(a) Written notice that appraisal rights are, are not, or may be available must be sent to each member from whom a consent is solicited at the time consent of such member is first solicited, and if the limited liability company has concluded that appraisal rights are or may be available, a copy of ss. 605.1006 and 605.1025 must accompany such written notice; or

(b) Written notice that appraisal rights are, are not, or may be available must accompany such written notice; or

(c) Without discounting for lack of marketability or minority status.

Section 267. Subsection (3) of section 605.1063, Florida Statutes, is amended to read:

605.1063 Notice of appraisal rights.—

(3) If the appraisal event is to be approved by written consent of the members pursuant to s. 605.04073 other than by a members’ meeting:

(a) Written notice that appraisal rights are, are not, or may be available must be sent to each member from whom a consent is solicited at the time consent of such member is first solicited, and if the limited liability company has concluded that appraisal rights are or may be available, a copy of ss. 605.1006 and 605.1025 must accompany such written notice; or

(b) Written notice that appraisal rights are, are not, or may be available must accompany such written notice.
may be available must be delivered, at least 10 days before the appraisal event becomes effective, to all nonconsenting and nonvoting members, and, if the limited liability company has concluded that appraisal rights are or may be available, a copy of ss. 605.1006 and 605.1061-605.1072 must accompany such written notice.

Section 268. Section 605.1072, Florida Statutes, is amended to read:

605.1072 Other remedies limited.—

(1) A member entitled to appraisal rights under this chapter may not challenge the legality of a proposed or completed appraisal event for which appraisal rights are available unless such completed appraisal event was either:

(a) Not authorized and approved in accordance with the applicable provisions of this chapter, the organic rules of the limited liability company, or the resolutions of the members authorizing the appraisal event; or

(b) Procured as a result of fraud, a material misrepresentation, or an omission of a material fact that is necessary to make statements made, in light of the circumstances in which they were made, not misleading.

(2) Nothing in this section operates to override or supersede ss. 605.04092.

Section 269. Subsection (16) of section 617.0302, Florida Statutes, is amended to read:

617.0302 Corporate powers.—Every corporation not for profit organized under this chapter, unless otherwise provided in its articles of incorporation or bylaws, shall have power to:

16. Merge with other corporations or other eligible business entities identified in s. 607.1101 (2), both for profit and not for profit, domestic and foreign, if the surviving corporation or other surviving eligible business entity is a corporation not for profit or other eligible business entity that has been organized as a not-for-profit entity under a governing statute or other applicable law that permits such a merger.

Section 270. Subsections (1) and (5) of section 617.0501, Florida Statutes, are amended, and subsection (6) is added to that section, to read:

617.0501 Registered office and registered agent.—

(1) Each corporation shall have and continuously maintain in this state:

(a) A registered office which may be the same as its principal office; and

(b) A registered agent, who may be either:

1. An individual who resides in this state whose business office is identical with such registered office; or

2. Another domestic entity that is an authorized entity whose business address is identical to the address of the registered office, or a foreign entity authorized to transact business in this state that is an authorized entity and whose business address is identical to the address of a corporation for profit or not for profit, authorized to transact business or
conduct its affairs in this state, having a business office identical with the registered office.

(5) A corporation may not *prosecute* or maintain any action in a court in this state until the corporation complies with this section or s. 617.1508, as applicable, and pays to the Department of State any amounts required under this chapter, and, to the extent ordered by a court of competent jurisdiction, pays to the Department of State a penalty of $5 for each day it has failed to so comply or $500, whichever is less.

(6) For the purposes of this section, the term "authorized entity" means:

(a) A corporation for profit;
(b) A limited liability company;
(c) A limited liability partnership;
(d) A limited partnership, including a limited liability limited partnership.

Section 271. Section 617.05015, Florida Statutes, is amended to read:

617.05015 Reserved name.—

(1) A person may reserve the exclusive use of the name of a corporation, including an alternate name for a foreign corporation whose name is not available, by delivering an application to the department for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the department finds that the name of the corporation applied for is available, it shall reserve the name for the applicant's exclusive use for a nonrenewable 120-day period.

(2) The owner of a reserved name of a corporation may transfer the reservation to another person by delivering to the department a signed notice of the transfer that states the name and address of the transferee.

(3) The department may revoke any reservation if, after a hearing, it finds that the application therefor or any transfer thereof was not made in good faith.

Section 272. Section 617.0831, Florida Statutes, is amended to read:

617.0831 Indemnification and liability of officers, directors, employees, and agents.—Except as provided in s. 617.0834, s. 607.0831 and ss. 607.0850-607.0859 ss. 607.0831 and 607.0859 apply to a corporation organized under this act and a rural electric cooperative organized under chapter 425. Any reference to "directors" in those sections includes the directors, managers, or trustees of a corporation organized under this act or of a rural electric cooperative organized under chapter 425. However, the term "director" as used in ss. 607.0831 and ss. 607.0850-607.0859 does not include a director appointed by the developer to the board of directors of a condominium association under chapter 718, a cooperative association under chapter 719, a homeowners’ association defined in s. 720.301, or a timeshare managing entity under chapter 721. Any reference to "shareholders" in those sections includes members of a corporation organized under this act and members of a rural electric cooperative organized under chapter 425.

Section 273. Section 617.1102, Florida Statutes, is amended to read:

617.1102 Limitation on merger.—A corporation not for profit...
organized under this chapter may merge with one or more other 
eligible business entities, as identified in s. 607.1101(1) or 
620.2108(3), only if the surviving entity of such merger is a 
corporation not for profit or other eligible business entity 
that has been organized as a not-for-profit entity under a 
governing statute or other applicable law that allows such a 
merger.

Section 274. Section 617.1108, Florida Statutes, is amended 
to read:

617.1108 Merger of domestic corporation and other eligible 
business entities.—

(1) Subject to s. 617.0302(16) and other applicable 
provisions of this chapter, ss. 607.1101, 607.1103, 607.1105, 
607.1106, and 607.1107 ss. 607.1108, 607.1109, and 620.2108 
shall apply to a merger involving a corporation not for profit 
or a successor registered agent appointed pursuant to s. 
620.2108(3), or a successor registered agent appointed pursuant to s. 
620.2108(3), or s. 620.8918(1) and (2). In such a case, the 
other articles of merger or certificate of merger may also be 
used for purposes of subsection (3).

(2) A copy of the articles of merger or certificate of 
merger, certified by the Department of State, may be filed in 
the office of the official who is the recording officer of each 
county in this state in which real property of a party to the 
merger, other than the surviving entity, is situated.

Section 275. Section 617.1507, Florida Statutes, is amended 
to read:

617.1507 Registered office and registered agent of foreign 
corporation.—

(1) Each foreign corporation authorized to conduct its 
affairs in this state must continuously maintain in this state:

(a) A registered office that may be the same as any of the 
places it conducts its affairs; and

(b) A registered agent, who may be:

1. An individual who resides in this state and whose 
business office is identical with the registered office;

2. Another domestic entity that is an authorized entity 
whose business address is identical to the address of the 
registered office; or

3. A foreign entity authorized to transact business in this 
state that is an authorized entity and whose business address is 
identical to the address of another domestic corporation for profit or not for profit the business office of which is identical with the 
registered office, or

3. A registered agent appointed pursuant to this section 
or a successor registered agent appointed pursuant to s. 
617.1508 on whom process may be served shall each file a 
statement in writing with the Department of State, in such form
and manner as shall be prescribed by the department, accepting
the appointment as a registered agent simultaneously with his or
her being designated. Such statement of acceptance shall state
that the registered agent is familiar with, and accepts, the
obligations of that position.

(3) For purposes of this section, "authorized entity"
means:
(a) A corporation for profit;
(b) A limited liability company;
(c) A limited liability partnership; or
(d) A limited partnership, including a limited liability
limited partnership.

Section 276. Subsections (2), (3), and (4) of section
620.1108, Florida Statutes, are amended, and subsection (6) is
added to that section, to read:
620.1108 Name.—

(2) The name of a limited partnership that is not a limited
liability limited partnership must contain the phrase "limited
partnership" or "limited" or the abbreviation "L.P." or "Ltd."
or the designation "LP," and may not contain the phrase "limited
liability limited partnership" or the abbreviation "L.L.P." or
the designation "LLLP," as will clearly indicate that it is a
limited partnership instead of a natural person, corporation,
limited liability company, or other business entity.

(3) The name of a limited liability limited partnership
must contain the phrase "limited liability limited partnership"
or the abbreviation "L.L.P." or designation "LLLP," as will
clearly indicate that it is a limited liability limited
partnership instead of a natural person or other business.
(1) After a plan of conversion is approved:

(c) A converting limited partnership is not required to

or amends its name in the records of the Department of State.

Section 279. Subsection (3) of section 620.2108, Florida

Statutes, is amended to read:

620.2108 Filings required for merger; effective date.—

(3) Each constituent limited partnership shall deliver the

certificate of merger for filing in the Department of State

unless the constituent limited partnership is named as a party

or constituent organization in articles of merger or a

certificate of merger filed for the same merger in accordance

with s. 605.1025, s. 607.1105, or s. 617.1108, or s.

620.8918(1) and (2) and such articles of merger or certificate

of merger substantially complies with the requirements of this

section. In such a case, the other articles of merger or

certificate of merger may also be used for purposes of s.

620.2109(3).

Section 280. Subsection (3) of section 620.8918, Florida

Statutes, is amended to read:

620.8918 Filings required for merger; effective date.—

(3) Each domestic constituent partnership shall deliver the

certificate of merger for filing with the Department of State,

unless the domestic constituent partnership is named as a party

or constituent organization in articles of merger or a

...
590-03467A-19 2019892c2

590-03467A-19 2019892c2

certificate of merger filed for the same merger in accordance

with s. 605.1025, s. 607.1105 [underlined], s. 617.1108, or s.

620.2108(3). The articles of merger or certificate of merger

must substantially comply with the requirements of this section.

In such a case, the other articles of merger or certificate of

merger may also be used for purposes of s. 620.8919(3). Each

domestic constituent partnership in the merger shall also file a

registration statement in accordance with s. 620.8105(1) if it
does not have a currently effective registration statement filed

with the Department of State.

Section 281. Paragraph (b) of subsection (2) and subsection

(4) of section 621.12, Florida Statutes, are amended to read:

621.12 Identification with individual shareholders or

individual members.—

(2) The name shall also contain:

(b1. In the case of a professional corporation, the words

"professional association," or the abbreviation "P.A." or the
designation "PA"; or

2. In the case of a professional limited liability company

formed before January 1, 2014, the words "professional limited
company" or "professional limited liability company," the
abbreviation "P.L." or "P.L.L.C." or the designation "PL" or
"PLL.C.," in lieu of the words "limited company" or "limited
liability company," or the abbreviation "L.C." or "L.L.C." or
the designation "LC" or "LLC" as otherwise required under s.
605.0112 or former s. 608.406.

3. In the case of a professional limited liability company

formed on or after January 1, 2014, the words "professional
limited liability company," the abbreviation "P.L.L.C." or the
(1) A foreign family trust company lawfully organized and currently in good standing with the state regulatory agency in the jurisdiction where it is organized may become domesticated in this state by:

(a) Filing with the Department of State articles of incorporation in accordance with s. 607.11922 or by filing articles of conversion in accordance with s. 605.1045 or s. 607.11933; and

(b) Filing an application for a license to begin operations as a licensed family trust company in accordance with s. 662.121, which must first be approved by the office, or by filing the prescribed form with the office to register as a family trust company to begin operations in accordance with s. 662.122.

Section 284. Subsection (1) of section 331.355, Florida Statutes, is amended to read:

331.355 Use of name; ownership rights to intellectual property.—

(1)(a) The corporate name of a corporation incorporated or authorized to transact business in this state, or the name of any person or business entity transacting business in this state, may not use the words “Space Florida,” “Florida Space Authority,” “Florida Aerospace Finance Corporation,” “Florida Space Research Institute,” “spaceport Florida,” or “Florida spaceport” in its name unless the Space Florida board of directors gives written approval for such use.
project or project phase is scheduled in the work program as of
the date of the agreement. Funds advanced pursuant to this
section, which were originally designated for transportation
purposes and so reimbursed to a county or municipality, shall be
used by the county or municipality for any transportation
expenditure authorized under s. 336.025(7). Also, cities and
counties may receive funds from persons, and reimburse those
persons, for the purposes of this section. Such persons may
include, but are not limited to, those persons defined in s.
607.01401(56) — 607.01401(112).

Section 286. Section 628.530, Florida Statutes, is amended
to read:

628.530 Effects of redomestication.—The certificate of
authority, agents appointments and licenses, rates, and other
items which the office or department allows, in its discretion,
which are in existence at the time any insurer licensed to
transact the business of insurance in this state transfers its
corporate domicile to this or any other state by merger,
consolidation, merger pursuant to s. 607.1101(7) — 607.1101(8),
or any other lawful method shall continue in full force and
effect upon such transfer if such insurer remains duly qualified
to transact the business of insurance in this state. All
outstanding policies of any transferring insurer shall remain in
full force and effect and need not be endorsed as to the new
name of the company or its new location unless so ordered by the
office. Every transferring insurer shall file new policy forms
with the office on or before the effective date of the transfer,
but may use existing policy forms with appropriate endorsements
if allowed by, and under such conditions as are approved by, the
Section 288. Subsection (5) of section 658.44, Florida Statutes, is amended to read:

658.44 Approval by stockholders; rights of dissenters; preemptive rights.—

(5) The fair value, as defined in s. 607.1301(5) or s. 607.1301(13), of dissenting shares of each constituent state bank or state trust company, the owners of which have not accepted an offer for such shares made pursuant to subsection (3), shall be determined pursuant to ss. 607.1326-607.1331 except as the procedures for notice and demand are otherwise provided in this section as of the effective date of the merger.

Section 289. Section 663.03, Florida Statutes, is amended to read:

663.03 Applicability of the Florida Business Corporation Act.—Notwithstanding s. 607.01401(36) or 607.01401(12), the provisions of part I of chapter 607 not in conflict with the financial institutions codes which relate to foreign corporations apply to all international banking corporations and their offices doing business in this state.

Section 290. Section 663.403, Florida Statutes, is amended to read:

663.403 Applicability of the Florida Business Corporation Act.—Notwithstanding s. 607.01401(36) or 607.01401(12), the provisions of part I of chapter 607 which are not in conflict with the financial institutions codes and which relate to foreign corporations apply to all international trust entities and their offices doing business in this state.

Section 291. Section 694.16, Florida Statutes, is amended to read:

694.16 Conveyances by merger or conversion of business entities.—As to any merger or conversion of business entities prior to June 15, 2000, the title to all real estate, or any interest therein, owned by a business entity that was a party to a merger or a conversion is vested in the surviving entity without reversion or impairment, notwithstanding the requirement of a deed which was previously required by former s. 607.11101, former s. 608.4383, former s. 620.204, former s. 620.8904, or former s. 620.8906.

Section 292. This act shall take effect January 1, 2020.
March 26, 2019

Honorable Travis Hutson
314 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Re: Senate Bill 892

Dear Chairman Hutson:

Senate Bill 892, Business Organizations, has been referred to the Appropriations Subcommittee on Transportation, Tourism, and Economic Development.

I respectfully request that you place SB 892 on your committee agenda at the earliest opportunity. I am available to speak with you at your convenience if you have any questions about the bill. Thank you for your consideration.

Respectfully,

Senator Kathleen Passidomo
District 28

cc: Jennifer Hrdlicka, Staff Director
cc: Tempie Sailors, Administrative Assistant
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 9/9/19

Bill Number (if applicable) 892

Amendment Barcode (if applicable)

Topic Business Organizations

Name Philip Schwartz

Job Title

Address 350 East Las Olas Blvd. 16th Floor, FT. LAUDERDALE, FL 33131

Phone 954 467 2455

Email philip.schwartz@akerman.com

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [X] Against

(The Chair will read this information into the record.)

Representing The Business Law Section of the Florida Bar

Appearing at request of Chair: [X] Yes [ ] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date: 4-9-19

Bill Number (if applicable): 892

Amendment Barcode (if applicable): 

Topic: Business Organizations

Name: Stephen Shiver

Job Title: 

Address: 204 S Monroe St

Street: Tallahassee

City: FL

State: 32301

Zip: 

Phone: 850 222-8900

Email: ssecardenas@tamu.edu

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: [ ] TAX Sect - FL BAR

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT
(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: CS/SB 1054
INTRODUCER: Community Affairs Committee and Senator Lee
SUBJECT: Community Redevelopment Agencies
DATE: April 8, 2019

ANALYST STAFF DIRECTOR REFERENCE ACTION
1. Ryon Yeatman CA Fav/CS
2. McAuliffe Hrdlicka ATD Recommend: Favorable
3. AP

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1054 makes numerous changes to ch. 163, F.S., relating to Community Redevelopment Agencies (CRAs).

The bill increases accountability and transparency for CRAs by:

- Requiring the commissioners of a CRA to undergo four hours of ethics training annually;
- Expanding the annual reporting requirements for CRAs to include audit information and performance data and requiring the information and data to be published on the agency website;
- Providing that beginning October 1, 2019, moneys in the CRA redevelopment trust fund may only be expended pursuant to an annual budget adopted by the board of commissioners for the CRA and only for those purposes specified in current law, including overhead and administrative costs;
- Requiring a CRA created by a municipality to provide its proposed budget, and any amendments to the budget, to the board of county commissioners for the county in which the CRA is located 10 days after the adoption of such budget; and
- Requiring counties and municipalities to include CRA data in their annual financial reports.

The bill also provides a process for the Department of Economic Opportunity (DEO) to declare a CRA inactive if it has no revenue, expenditures, and debt for six consecutive fiscal years, and provides for the termination of existing CRAs at the earlier of the expiration date stated in the CRA’s charter as of October 1, 2019, or on September 30, 2039. The governing board of the
creating local government entity may prevent the termination of a CRA by a majority vote. Finally, the bill authorizes the local governing body that created the CRA to adjust the level of tax increment financing available to the CRA.

The bill is expected to have a minimal fiscal impact on the state.

The bill is effective on October 1, 2019.

II. Present Situation:

The Community Redevelopment Act

The Community Redevelopment Act of 1969 authorizes a county or municipality to create a community redevelopment agency (CRA) as a means of redeveloping slums and blighted areas.\(^1\)

The act defines a “blighted area” as an area in which there are a substantial number of deteriorated structures causing economic distress or endangerment to life or property and two or more of the factors listed in s. 163.340(8), F.S., are present. However, an area may also be classified as blighted if one factor is present and all taxing authorities with jurisdiction over the area agree that the area is blighted by interlocal agreement or by passage of a resolution by the governing bodies.\(^2\)

The act defines a “slum area” as “an area having physical or economic conditions conducive to disease, infant mortality, juvenile delinquency, poverty, or crime because there is a predominance of buildings or improvements” in poor states of repair with one of the following factors present:

- Inadequate provision for ventilation, light, air, sanitation, or open spaces;
- High density of population, compared to the population density of adjacent areas within the county or municipality, and overcrowding, as indicated by government-maintained statistics or other studies and the requirements of the Florida Building Code; or
- The existence of conditions that endanger life or property by fire or other causes.\(^3\)

Creation of Community Redevelopment Agencies

Either a county or a municipal government may create a CRA. Before creating a CRA, a county or municipal government must adopt a resolution with a “finding of necessity.” This resolution must make legislative findings “supported by data and analysis” that the area to be included in the CRA’s jurisdiction is either blighted or a slum and that redevelopment of the area is necessary to promote “the public health, safety, morals, or welfare” of residents.\(^4\)

A county or municipality may create a CRA upon the adoption of a finding of necessity and a finding that a CRA is necessary for carrying out the community redevelopment goals embodied by the act.\(^5\) A CRA created by a county may only operate within the boundaries of a municipality.

---

\(^1\) Chapter 163, F.S., part III.
\(^2\) Section 163.340(8), F.S.
\(^3\) Section 163.340(7), F.S.
\(^4\) Section 163.355, F.S.
\(^5\) Section 163.356(1), F.S.
when the municipality has concurred by resolution with the community redevelopment plan adopted by the county. A CRA created by a municipality may not include more than 80 percent of the municipality if it was created after July 1, 2006.6

The ability to create, expand, or modify a CRA is also determined by the county’s status as a charter or non-charter county, as summarized below:

- If a CRA is created in a charter county after the adoption of the charter, the county possesses authority to create CRAs within the county, but may delegate authority to a municipality via interlocal agreement.7
- If a CRA is created in a municipality in a charter county before the adoption of the charter, the county does not have authority over CRA operations, including modification of the redevelopment plan or expansion of CRA boundaries.8
- If a CRA is created in a municipality in a non-charter county, the county does not have authority over CRA operations, including modification of the redevelopment plan or expansion of CRA boundaries.9

As of March 20, 2019, there are 227 CRAs in Florida, which is a 30 percent increase over the past decade.10

**Community Redevelopment Agency Boards**

The act allows the local governing body creating a CRA to choose between two structures for the agency governing board.

One option is to appoint a board of commissioners consisting of five to nine members serving four-year terms.11 The local governing body may appoint any person as a commissioner who lives in or is engaged in business in the agency’s area of operation.12 The local governing body making the appointment selects the chair and vice chair of the commission.13 Commissioners are not entitled to compensation for their services, but may receive reimbursement for expenses incurred in the discharge of their official duties.14 Commissioners and employees of a CRA are subject to the code of ethics for public officers and employees under ch. 112, F.S.15

The second option is for the local governing body to appoint itself as the agency board of commissioners.16 If the local governing body consists of five members, the local governing body

---

6 Section 163.340(10), F.S.
7 Section 163.410, F.S.
8 Id.
9 Section 163.415, F.S.
11 Section 163.356(2), F.S.
12 Section 163.356(3)(b), F.S. A person is “engaged in business” if he or she owns a business, performs services for compensation, or serves as an officer or director of a business that owns property or performs services in the agency’s area of operation.
13 Section 163.356(3)(c), F.S.
14 Section 163.356(3)(a), F.S.
15 Section 163.367(1), F.S.
16 Section 163.357(1)(a), F.S.
may appoint two additional members to four-year terms.\textsuperscript{17} The additional members must meet the selection criteria for appointed board members under s. 163.356, F.S., or be representatives of another taxing authority within the agency’s area of operation, subject to an interlocal agreement between the local governing body creating the CRA and the other taxing authority.\textsuperscript{18}

As of March 20, 2019, the local governing body creating the CRA serves as the CRA board for 159 of the 227 active CRAs.\textsuperscript{19}

**Community Redevelopment Agency Operations**

The CRA board of commissioners is responsible for exercising the powers of the agency.\textsuperscript{20} A majority of the board’s members are required for a quorum. An agency is authorized to employ an executive director, technical experts, legal counsel, and other agents and employees necessary to fulfill its duties.\textsuperscript{21}

A CRA exercising its powers under the act must file an annual report to the local governing body that created it.\textsuperscript{22} The report must contain a complete financial statement of the assets, liabilities, income, and operating expenses of the agency. The CRA must publish a notice in a newspaper of general circulation in the community that the report has been filed and is available for inspection during business hours in the office of the clerk of the city or county commission and the office of the CRA.\textsuperscript{23}

**Community Redevelopment Plans**

A community redevelopment plan must be in place before a CRA can engage in operations.\textsuperscript{24} Each community redevelopment plan must provide a time certain for completing all redevelopment financed by increment revenues. The time certain must occur no later than 30 years after the fiscal year in which the plan is approved, adopted, or amended pursuant to s. 163.361(1), F.S. However, for any agency created after July 1, 2002, the time certain for completing all redevelopment financed by increment revenues must occur within 40 years after the fiscal year in which the plan is approved or adopted.\textsuperscript{25}

The county, municipality, the CRA itself, or members of the public may submit a plan and the CRA then chooses which plan it will use as its community redevelopment plan. Next, the CRA must submit the plan to the local planning agency for review before the plan can be considered. The local planning agency must complete its review within 60 days.\textsuperscript{26}

\textsuperscript{17} Section 163.357(1)(c), F.S.  
\textsuperscript{18} Section 163.357(1)(c)-(d), F.S.  
\textsuperscript{20} Section 163.356(3)(b), F.S.  
\textsuperscript{21} Section 163.356(3)(c), F.S.  
\textsuperscript{22} Id.  
\textsuperscript{23} Id.  
\textsuperscript{24} Section 163.360(1), F.S.  
\textsuperscript{25} Section 163.362(10), F.S.  
\textsuperscript{26} Section 163.360(4), F.S.
The CRA must submit the community redevelopment plan to the governing body that created the CRA as well as to each taxing authority that levies ad valorem taxes on taxable real property contained in the boundaries of the CRA. The local governing body that created the CRA must hold a public hearing before the plan is approved.

To approve the plan, the local governing body must make findings as specified in s. 163.360(6), F.S. The community redevelopment plan must also:

- Conform to the comprehensive plan for the county or municipality;
- Indicate land acquisition, demolition, and removal of structures; redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the community redevelopment area; zoning and planning changes, if any; land uses; maximum densities; and building requirements; and
- Provide for the development of affordable housing in the area, or state the reasons for not addressing in the plan the development of affordable housing.

**Redevelopment Trust Fund**

CRAs are not permitted to levy or collect taxes; however, the local governing body is permitted to establish a community redevelopment trust fund that is funded through tax increment financing (TIF). The amount of TIF available to the agency in a given year is equal to 95 percent of the difference between:

- The amount of ad valorem taxes levied in the current year by each taxing authority, excluding any debt service millage, on taxable real property within the boundaries of the community redevelopment area; and
- The amount of ad valorem taxes that would have been produced by levying the current year’s millage rate for each taxing authority, excluding any debt service millage, on taxable real property within the boundaries of the community redevelopment area at the total assessed value of the taxable real property prior to the effective rate of the ordinance providing for the redevelopment trust fund.

A CRA created by a county defined in s. 125.011(1), F.S., (Miami-Dade County) on or after July 1, 1994, may set the amount of funding provided at less than 95 percent, with a floor of 50 percent.

Each taxing authority must transfer TIF funds to the redevelopment trust fund of the CRA by January 1 of each year. For CRAs created before July 1, 2002, each taxing authority must make an annual appropriation to the trust fund for the lesser of 60 years from when the community redevelopment plan was adopted or 30 years from when it was amended. For CRAs created on or after July 1, 2002, each taxing authority must make an annual appropriation to the trust fund for 40 years from when the community redevelopment plan was adopted. If there are any outstanding loans, advances, or indebtedness at the conclusion of these time periods, the local...
governing body that created the CRA must continue transfers to the redevelopment trust fund until the debt has been paid.  

If a taxing authority does not transfer the TIF funds to the redevelopment trust fund, the taxing authority is required to pay a penalty of 5 percent of the TIF amount to the trust fund as well as 1 percent interest per month for the outstanding amount. A CRA may choose to waive these penalties in whole or in part.

Any revenue bonds issued by the CRA are payable from revenues pledged to and received by the CRA and deposited into the redevelopment trust fund. The lien created by the revenue bonds does not attach to the bonds until the revenues are deposited in the redevelopment trust fund and bondholders are not granted any right to require taxation in order to retire the bond. Revenue bonds issued by a CRA are not a liability of the state or any political subdivision of the state and this status must be made clear on the face of the bond.

A CRA may spend funds deposited in its redevelopment trust fund for purposes, including, but not limited to those listed in s. 163.387(6), F.S., which include:

- Administrative and overhead expenses;
- Planning, surveys, and financial expenses;
- The acquisition of property;
- Clearance and preparation of the redevelopment area including relocation of residents;
- Repayment of principal and interest for loans and other indebtedness;
- Expenses related to the issuance, sale, purchase, and other bond related expenses; and
- The development of affordable housing.

If any funds remain in the redevelopment trust fund on the last day of the fiscal year, the funds must be:

- Returned to each taxing authority on a pro rata basis;
- Used to reduce the amount of any indebtedness to which increment revenues are pledged;
- Deposited into an escrow account for the purpose of later reducing any indebtedness to which increment revenues are pledged; or
- Appropriated to a specific redevelopment project pursuant to an approved community redevelopment plan; the project must be completed within 3 years from the date of such appropriation.

Each CRA is required to provide for an annual audit of its redevelopment trust fund, conducted by an independent certified public accountant or firm.

---

32 Section 163.387(3)(a), F.S.
33 Section 163.387(2)(b), F.S.
34 Section 163.387(4), F.S.
35 Section 163.387(5), F.S.
36 Section 163.387(7), F.S.
37 Section 163.387(8), F.S.
CRA Oversight and Accountability

Miami-Dade County Grand Jury Report

A Miami-Dade County grand jury issued a report in 2016 after “learning of several examples of mismanagement of large amounts of public dollars” by CRAs. The report found that some CRA boards were “spending large amounts of taxpayer dollars on what appeared to be pet projects of elected officials” and “there is a significant danger of CRA funds being used as a slush fund for elected officials.” In the event funds were misused, the report found that the act lacked any accountability and enforcement measures.

The report noted that while county and municipal governments may not pledge ad valorem tax proceeds to finance bonds without voter approval, the board of a CRA can pledge TIF funds to finance bonds without any public input.

The grand jury found that redevelopment trust fund money was often used “without the exercise of any process of due diligence, without justification and without recourse.” The report notes that the act does not provide guidelines for the proper use of CRA funds, resulting in questionable expenditures. For example, one CRA highlighted in the report spent $300,000 of its $400,000 budget on administrative expenses. The report also found examples of the CRA funds being used to fund fairs, carnivals, and other community entertainment events. Additionally, the report found that funds may have been misused as part of the CRA contracting process since there is no specified procurement process that CRAs must follow.

While the act states affordable housing is one of the three primary purposes for the existence of CRAs, the report found that the provision of affordable housing by CRAs “appears to be the exception and not the rule.” The report stated that while CRAs cite prohibitive costs as a reason for not developing affordable housing, funds are often used for other purposes. Some CRAs have requested that their boundaries be extended to include areas for low-income housing while not providing any affordable housing. Some CRA board members have stated the agencies do not focus on affordable housing because it does not produce sufficient revenue.

Another area of concern for the grand jury was a focus on removing blight by improving the appearance of commercial areas, but leaving slum conditions in place, particularly in the form of multi-family housing that is “unsafe, unsanitary, and overcrowded.” The grand jury points to news coverage of some apartment buildings with overflowing toilets and frequent losses of

39 Id. at 7.
40 Id. at 9.
41 Id. at 14.
42 Id. at 15.
43 Id. at 16.
44 Id. at 17.
45 Id. at 19.
46 Id.
47 Id.
48 Id. at 20.
49 Id. at 22.
power due to the need for repairs. The report notes the contrast between these conditions and the use of some CRA proceeds to “fund ball stadiums, performing arts centers[,] and dog parks.”

The grand jury report also notes that while a finding of necessity is required for creating a CRA, there is no process for determining whether the mission of the CRA has been fulfilled.

The report makes 29 recommendations for ensuring transparency and accountability in the operation of CRAs, including:

- Requiring all CRA boards to contain members of the community;
- Imposing a cap on annual CRA expenditures used for administrative costs;
- Requiring CRAs to adopt procurement guidelines that mirror those of the associated county or municipality;
- Requiring each CRA to submit its budget to the county commission with sufficient time for full consideration;
- Setting aside a percentage of TIF revenue for affordable housing; and
- Imposing ethics training requirements.

Broward County Inspector General Reports

The Broward County Office of the Inspector General has conducted two investigations into CRA operations in the past five years: Hallandale Beach CRA in 2013 and Margate CRA in 2014.

The investigation into the Hallandale Beach CRA showed that the agency failed to create a trust fund and that the city commission failed to operate the CRA as an entity separate from the city. The former executive director of the CRA stated the city had “free reign” to use funds from the CRA’s account. The report found over $2 million of questionable expenditures by the Hallandale Beach CRA between 2007 and 2012, including $125,000 in inappropriate loans and $152,494 spent on “civic promotions such as festivals and fireworks displays.” After some of these issues were brought to the attention of the city and the CRA, the CRA continued working on a funding plan that included spending $5,347,000 on two parks outside of the boundaries of the CRA. The report also found that the CRA paid “substantially more than its appraised value” to purchase a property owned by a church whose pastor was a city commissioner at the time.

The investigation of the Margate CRA showed a failure to properly allocate TIF funds received from the county and other taxing authorities. While the CRA stated unused funds were not

50 Id.
51 Id. at 32.
52 Id. at 34-36.
55 City of Hallandale Beach, supra note 54, at 1.
56 Id. at 28.
57 Id. at 1.
58 Id. at 2.
59 Margate Community Redevelopment Agency, supra note 55, at 1.
returned because they were allocated for a specific project, the investigation showed the agency had a pattern of intentionally retaining excess unallocated funds for later use. This pattern of misuse had resulted in a debt to the county of approximately $2.7 million for Fiscal Years 2008-2012.

**Auditor General Report**

The Auditor General is required to conduct a performance audit of the local government financial information reporting system every three years. As part of the most recent performance audit, the Auditor General made five findings concerning CRAs:

- Current law could be enhanced to be more specific as to the types of expenditures that qualify.
- Current law could be enhanced to provide county taxing authorities more control over expenditures of CRAs created by municipalities to help ensure that CRA trust fund moneys are used appropriately.
- Current law could be revised to require all CRAs, including those created before October 1, 1984, to follow the statutory requirements governing the specific authorized uses of CRA trust fund moneys.
- Current law could be enhanced to allow CRAs to provide for reserves of unexpended CRA trust fund balances to be used during financial downturns.
- Current law could be enhanced to promote compliance with the audit requirement in s. 163.387(8), F.S., and to require such audits to include a determination of compliance with laws pertaining to expenditure of, and disposition of unused, CRA trust fund moneys.

**Ethics Training Requirements for Public Officials**

Constitutional officers and all elected municipal officers must complete four hours of ethics training on an annual basis. The required ethics training must include instruction on Art. II, s. 8 of the Florida Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws. This requirement may be met by attending a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

**Inactive Special Districts**

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Whether dependent or independent, when a special district no longer fully functions or fails to meet its statutory responsibilities, the
DEO must declare that district inactive by following a specified process. The DEO must first document the factual basis for declaring the district inactive.

A special district may be declared inactive if it meets one of the following criteria:

- The registered agent of the district, the chair of the district governing body, or the governing body of the appropriate local general-purpose government:
  - Provides the DEO with written notice that the district has taken no action for 2 or more years;
  - Provides the DEO with written notice that the district has not had any members on its governing body or insufficient numbers to constitute a quorum for 2 or more years; or
  - Fails to respond to an inquiry by the DEO within 21 days.
- Following statutory procedure, the DEO determines the district failed to file specified reports, including required financial reports.
- For more than 1 year, no registered office or agent for the district was on file with the DEO.
- The governing body of the district unanimously adopts a resolution declaring the district inactive and provides documentation of the resolution to the DEO.

Once the DEO determines which criterion applies to inactivate the district, notice of the proposed declaration of inactive status is published by the DEO, the local general-purpose government for the area where the district is located, or the district itself. After declaring certain special districts inactive, the DEO must send written notice of the declaration to the authorities that created the district. The property and assets of a special district declared inactive by the DEO are first used to pay any debts of the district and any remaining property or assets then escheat to the county or municipality in which the district was located. If the district’s assets are insufficient to pay its outstanding debts, the local general-purpose government in which the district was located may assess and levy within the territory of the inactive district such taxes as necessary to pay the remaining debt.

A district declared inactive may not collect taxes, fees, or assessments. This prohibition continues until the declaration of invalid status is withdrawn or revoked by the DEO or invalidated in an administrative proceeding or civil action timely brought by the governing body.

---

65 Section 189.062(1), F.S.
66 Section 189.062(1)(a)1.-3., F.S.
67 Section 189.067, F.S.
68 Section 189.066, F.S.
69 Section 189.062(1)(a)4., F.S. See, ss. 189.016(9), 218.32, 218.39, F.S.
70 Section 189.062(1)(a)5., F.S.
71 Section 189.062(1)(a)6., F.S.
72 Publication must be in a newspaper of general circulation in the county or municipality where the district is located and a copy sent by certified mail to the district’s registered agent or chair of the district’s governing body, if any. Section 189.062(1)(b), F.S.
73 Section 189.062(2), F.S.
74 Section 189.062(5), F.S.
75 Section 189.062(5)(a), F.S.
76 Section 189.062(5)(b)1., F.S. Administrative proceedings are conducted pursuant to s. 120.569, F.S.
77 Section 189.062(5)(b)2., F.S. The action for declaratory and injunctive relief is brought under ch. 86, F.S.
body of the special district. Failure of the special district to challenge (or prevail against) the declaration of inactive status enables the DEO to enforce the statute through a petition for enforcement in circuit court.

Declaring a special district to be inactive does not dissolve the district or otherwise cease its legal existence. Subsequent action is required to repeal the legal authority creating the district, whether by the Legislature or the entity that created the district.

Annual Financial Reports for Local Government Entities

Counties, municipalities, and special districts must submit an annual financial report for the previous fiscal year to the Department of Financial Services (DFS). The report must include component units of the local government entity submitting the report. If a local government entity is required to conduct an audit under s. 218.39, F.S., for the fiscal year, the annual financial report, as well as a copy of the audit report, must be submitted to DFS within 45 days of completion of the audit report, but no later than 9 months after the end of the fiscal year. If the local government entity is not required to conduct an audit under s. 218.39, F.S., for the fiscal year, the annual financial report is due no later than 9 months after the end of the fiscal year. Each local government must provide a link to the annual audit report on its website.

III. Effect of Proposed Changes:

Section 1 amends s. 112.3142, F.S., to require each commissioner of a CRA to complete four hours of ethics training each calendar year beginning January 1, 2020. This requirement may be satisfied by the completion of a continuing legal education class or other continuing education professional education class, seminar, or presentation if the required subject material is covered by such class.

Section 2 amends s. 163.356, F.S., to repeal the annual report requirements and reference the new CRA annual report requirements created in s. 163.371(1), F.S., by the bill.

Section 3 amends s. 163.367, F.S., to provide that commissioners of a CRA must comply with the ethics training requirements in s. 112.3142, F.S. The requirements include mandating that officers complete four hours of ethics training each calendar year.

Section 4 creates s. 163.371, F.S., to provide reporting requirements for CRAs. Specifically, the section requires each CRA to submit an annual report to the county or municipality that created the agency by March 31 of each year and to publish the report to the agency’s website. The report must include the most recent complete audit report of the redevelopment trust fund and provide performance data for each community redevelopment plan authorized, administered, or

78 The special district must initiate the legal challenge within 30 days after the date the newspaper notice of the DEO’s declaration of inactive status is published. Section 189.062(5)(b), F.S.
79 Section 189.062(5)(c), F.S. The enforcement action is brought in the circuit court in and for Leon County.
80 Sections 189.071(3), 189.072(3), F.S.
81 Section 189.062(4), F.S. Unless otherwise provided by law or ordinance, dissolution of a special district transfers title to all district property to the local general-purpose government, which also must assume all debts of the dissolved district. Section 189.076(2), F.S.
82 Section 218.32, F.S.
overseen by the CRA. If a CRA’s audit report is not complete by March 31, the CRA must publish the audit report on its website within 45 days of completion. The performance data report must include the following information as of December 31 of the year being reported:

- The total number of projects the CRA started and completed, and the estimated cost of each project;
- The total expenditures from the redevelopment trust fund;
- The original assessed real property values within the CRA’s area of authority as of the day the agency was created;
- The total assessed real property values within the CRA’s area of authority as of January 1 of the year being reported; and
- The total amount expended for affordable housing for low- and middle-income residents.

The report must also include a summary indicating if and to what extent the CRA has achieved the goals set out in its community redevelopment plan.

By January 1, 2020, each CRA must publish digital maps on its website depicting the geographic boundaries and the total acreage of the CRA. If any change is made to the boundaries or total acreage, the CRA must post the updated map files on its website within 60 days after the date such change takes effect.

Section 5 creates s. 163.3755, F.S., to provide for the termination of existing CRAs at the earlier of the expiration date stated in the CRA’s charter as of October 1, 2019, or on September 30, 2039. However, the governing board of the creating local government entity may prevent the termination of a CRA by a majority vote. The bill does not provide a deadline by which such vote must occur.

If the governing board does not vote to continue a CRA with outstanding bond obligations as of October 1, 2019, and those bonds do not mature until after the termination date of the CRA or September 30, 2039, the bill provides that the CRA remains in existence until the bonds mature. A CRA in operation on or after September 30, 2039, may not extend the maturity date of its bonds. The bill requires a county or municipality operating an existing CRA to issue a new finding of necessity that is limited to meeting the remaining bond obligations of the CRA in a timely manner.

Section 6 creates s. 163.3756, F.S., relating to inactive CRAs. The section provides a legislative finding that a number of CRAs continue to exist despite reporting no revenues, no expenditures, and no outstanding debt in their annual reports.

The DEO must declare inactive any CRA reporting no revenues, expenditures, and debt for six consecutive fiscal years with the calculation beginning on October 1, 2016. The DEO must notify the CRA of the declaration of inactive status. If the CRA has no board members and no agent, the DEO must notify the governing board or commission of the county or municipality that created the CRA. The governing board of a CRA declared inactive by this procedure may seek to invalidate the declaration by initiating proceedings under s. 189.062(5), F.S., within 30 days after the date of receipt of the DEO notice.
A CRA declared inactive may only expend funds from its redevelopment trust fund as necessary to service outstanding bond debt. The CRA may not expend other funds without an ordinance of the governing body of the local government that created the CRA consenting to the expenditure of funds.

The bill provides that the provisions of s. 163.3756, F.S., are cumulative to the provisions of s. 189.062, F.S., which provides special procedures for inactive special districts. However, if the provisions in s.163.3756, F.S., conflict with s. 189.062, F.S., then s. 163.3756, F.S., prevails. Further, the bill provides that the provisions of s. 189.062(2) and (4), F.S., do not apply to a CRA that has been declared inactive under this section (levy of taxes to repay debt and repeal of laws enabling the special district).

The DEO must maintain on its website a separate list of CRAs declared inactive pursuant to s. 163.3756, F.S.

Section 7 amends s. 163.387, F.S., relating to the redevelopment trust fund.

Beginning October 1, 2019, moneys in the redevelopment trust fund may be expended only for undertakings of the CRA as described in the community redevelopment plan pursuant to an annual budget adopted by the board of commissioners of the CRA and for the purposes specifically authorized in current law, including administrative and overhead expenses.

The bill repeals a three-year time limitation on the rollover of redevelopment trust fund moneys appropriated to a specific redevelopment project pursuant to an approved community redevelopment plan, but requires retained moneys to either be used for the appropriated project or re-appropriated pursuant to the next annual budget of the CRA (if the project is amended, redesigned, or delayed).

A CRA created by a municipality must submit its annual budget to the board of county commissioners for the county in which the agency is located within 10 days after the adoption of the budget and submit amendments of its annual budget to the board of county commissioners within 10 days after the date the amended budget is adopted.

Except as provided in s. 163.387, F.S., the bill requires CRAs to comply with budgeting, auditing, and reporting requirements of s. 189.016, F.S.

Each CRA with revenues or a total of expenditures and expenses over $100,000, as reported on the trust fund financial statements, shall provide for a financial audit each fiscal year.

The bill expands the current reporting requirements for the audit report of the redevelopment trust fund to include:

- A complete financial statement identifying all assets, liabilities, income, and operating expenses of the CRA as of the end of fiscal year; and
- A finding by the auditor determining whether the CRA complied with the authorized expenditure purposes and the requirements concerning remaining funds at the conclusion of the fiscal year.
The bill requires the audit report for the CRA to be included with the annual financial report submitted by the county or municipality that created the CRA to the DFS, even if the CRA files a separate financial report under s. 218.32, F.S.

The bill also authorizes the local governing body that created the CRA to determine the amount of TIF available to the CRA. The local governing body may set the level of funding at any amount between 50 percent and 95 percent of the increment (as opposed to current law where only Miami-Dade County has this authority).

Section 8 amends s. 218.32, F.S., relating to annual financial reports. The section provides that the failure of a county or municipality to include in its annual report to the DFS the full audit required under s. 163.387(8), F.S., for each CRA created by that county or municipality constitutes a failure to report under s. 218.32, F.S.

By November 1 of each year, the DFS must provide the Special District Accountability Program of the DEO with a list of each CRA reporting no revenues, expenditures, or debt for the CRA’s previous fiscal year.

Section 9 provides that the act takes effect on October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.
B. Private Sector Impact:
None.

C. Government Sector Impact:
The DEO is currently responsible for documenting and declaring special districts inactive and the DFS is responsible for accepting and reviewing annual financial reports from local governments and special districts. The new similar responsibilities regarding CRAs will likely have a minimal impact on the agencies’ workloads.

VI. Technical Deficiencies:
None.

VII. Related Issues:
None.

VIII. Statutes Affected:
This bill substantially amends the following sections of the Florida Statutes: 112.3142, 163.356, 163.367, 163.387, and 218.32.
This bill creates the following sections of the Florida Statutes: 163.371, 163.3755, and 163.3756.

IX. Additional Information:
A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on March 26, 2019:
The committee substitute makes the following changes to the bill:
• Removes CRA lobbyist registration and reporting requirements;
• Removes provision specifically prohibiting a CRA from funding activities related to festivals and street parties and grants to certain entity types;
• Removes provision that adds four factors to the definition of “blighted area;”
• Restores current law to allow an area to be declared blighted with the presence of only one factor with agreement of all TIF taxing authorities;
• Removes the 18 percent cap on CRA administrative and overhead expenses;
• Removes reference to specific projects a CRA may fund;
• Increases the duration in which DEO must declare a CRA inactive from 3 years to 6 years;
• Directs a CRA to post its audit online within 45 days of completion if the audit is not available by the March 31 annual report deadline; and
• Changes the effective date to October 1, 2019.
B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
An act relating to community redevelopment agencies; amending s. 112.3142, F.S.; requiring ethics training for community redevelopment agency commissioners; specifying requirements for such training; amending s. 163.356, F.S.; revising reporting requirements; deleting provisions requiring certain annual reports; amending s. 163.367, F.S.; requiring ethics training for community redevelopment agency commissioners; creating s. 163.371, F.S.; requiring a community redevelopment agency to publish certain digital boundary maps on its website; providing annual reporting requirements; requiring a community redevelopment agency to publish the annual reports on its website; creating s. 163.3755, F.S.; providing termination dates for certain community redevelopment agencies; creating s. 163.3756, F.S.; providing legislative findings; requiring the Department of Economic Opportunity to declare inactive community redevelopment agencies that have reported no financial activity for a specified number of years; providing hearing procedures; authorizing certain financial activity by a community redevelopment agency that is declared inactive; providing applicability; providing construction; requiring the department to maintain a list on its website identifying all inactive community redevelopment agencies; amending s. 163.387, F.S.; specifying the level of tax increment financing that a governing body may establish for funding the redevelopment trust fund; effective on a specified date, revising requirements for the use of redevelopment trust fund proceeds; limiting allowed expenditures; revising requirements for the annual budget of a community redevelopment agency; revising requirements for use of moneys in the redevelopment trust fund for specific redevelopment projects; revising requirements for the annual audit; requiring the audit to be included with the financial report of the county or municipality that created the community redevelopment agency; amending s. 218.32, F.S.; revising criteria for finding that a county or municipality failed to file a report; requiring the Department of Financial Services to provide a report to the Department of Economic Opportunity concerning community redevelopment agencies reporting no revenues, expenditures, or debts; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 112.3142, Florida Statutes, is amended to read:

112.3142 Ethics training for specified constitutional officers, and elected municipal officers, and commissioners.—

(1) As used in this section, the term “constitutional officers” includes the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax
(2)(a) All constitutional officers must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

(b) Beginning January 1, 2015, all elected municipal officers must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

(c) Beginning January 1, 2020, each commissioner of a community redevelopment agency created under part III of chapter 163 must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

(d) The commission shall adopt rules establishing minimum course content for the portion of an ethics training class which addresses s. 8, Art. II of the State Constitution and the Code of Ethics for Public Officers and Employees.

(e) The Legislature intends that a constitutional officer or elected municipal officer who is required to complete ethics training pursuant to this section receive the required training as close as possible to the date that he or she assumes office. A constitutional officer or elected municipal officer assuming a new office or new term of office on or before March 31 must complete the annual training on or before December 31 of the year in which the term of office began. A constitutional officer or elected municipal officer assuming a new office or new term of office after March 31 is not required to complete ethics training for the calendar year in which the term of office began.

(3) Each house of the Legislature shall provide for ethics training pursuant to its rules.

Paragraphs (c) and (d) of subsection (3) of section 163.356, Florida Statutes, are amended to read:

Section 2. Paragraphs (c) and (d) of subsection (3) of section 163.356, Florida Statutes, are amended to read:

(3) (c) The governing body of the county or municipality shall designate a chair and vice chair from among the commissioners. An agency may employ an executive director, technical experts, and such other agents and employees, permanent and temporary, as it requires, and determine their qualifications, duties, and compensation. For such legal service as it requires, an agency
(d) An agency authorized to transact business and exercise powers under this part shall file with the governing body the report required pursuant to s. 163.371(1), on or before March 31 of each year, a report of its activities for the preceding fiscal year, which report shall include a complete financial statement setting forth its assets, liabilities, income, and operating expenses as of the end of such fiscal year. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the county or municipality and that the report is available for inspection during business hours in the office of the clerk of the city or county commission and in the office of the agency.

(e) At any time after the creation of a community redevelopment agency, the governing body of the county or municipality may appropriate to the agency such amounts as the governing body deems necessary for the administrative expenses and overhead of the agency, including the development and implementation of community policing innovations.

Section 3. Subsection (1) of section 163.367, Florida Statutes, is amended to read:

163.367 Public officials, commissioners, and employees subject to code of ethics.—

(1) The officers, commissioners, and employees of a community redevelopment agency created by, or designated pursuant to, s. 163.356 or s. 163.357 are subject to the provisions and requirements of part III of chapter 112, and commissioners also must comply with the ethics training requirements as imposed in s. 112.3142.

Section 4. Section 163.371, Florida Statutes, is created to read:

163.371 Reporting requirements.—

(1) By January 1, 2020, each community redevelopment agency shall publish on its website digital maps that depict the geographic boundaries and total acreage of the community redevelopment agency. If any change is made to the boundaries or total acreage, the agency shall post updated map files on its website within 60 days after the date such change takes effect.

(2) Beginning March 31, 2020, and not later than March 31 of each year thereafter, a community redevelopment agency shall file an annual report with the county or municipality that created the agency and publish the report on the agency’s website. The report must include the following information:

(a) The most recent complete audit report of the redevelopment trust fund as required in s. 163.387(8). If the audit report for the previous year is not available by March 31, a community redevelopment agency shall publish the audit report on its website within 45 days after completion.

(b) The performance data for each plan authorized, administered, or overseen by the community redevelopment agency as of December 31 of the reporting year, including the:

1. Total number of projects started and completed and the estimated cost for each project.

2. Total expenditures from the redevelopment trust fund.

2. Original assessed real property values within the community redevelopment agency’s area of authority as of the day the agency was created.
subsection on or after September 30, 2039, may not extend the maturity date of any outstanding bonds.

The agency may not expend other funds in its community redevelopment plan.

Section 5. Section 163.3755, Florida Statutes, is created to read:

163.3755 Termination of community redevelopment agencies.—

(1) A community redevelopment agency in existence on October 1, 2019, shall terminate on the expiration date provided in the agency’s charter on October 1, 2019, or on September 30, 2039, whichever is earlier, unless the governing body of the county or municipality that created the community redevelopment agency approves its continued existence by a majority vote of the members of the governing body.

(2)(a) If the governing body of the county or municipality that created the community redevelopment agency does not approve its continued existence by a majority vote of the governing body members, a community redevelopment agency with outstanding bonds as of October 1, 2019, that do not mature until after the termination date of the agency or September 30, 2039, whichever is earlier, remains in existence until the date the bonds mature.

(b) A community redevelopment agency operating under this subsection on or after September 30, 2039, may not extend the maturity date of any outstanding bonds.
the absence of an ordinance of the local governing body that
created the agency which consents to the expenditure of such
funds.
(4) The provisions of s. 189.062(2) and (4) do not apply to
a community redevelopment agency that has been declared inactive
under this section.
(5) The provisions of this section are cumulative to the
provisions of s. 189.062. To the extent the provisions of this
section conflict with the provisions of s. 189.062, this section
prevails.
(6) The Department of Economic Opportunity shall maintain
on its website a separate list of community redevelopment
agencies declared inactive under this section.
Section 7. Paragraph (a) of subsection (1), subsection (6),
paragraph (d) of subsection (7), and subsection (8) of section
163.387, Florida Statutes, are amended to read:
163.387 Redevelopment trust fund.—
(1)(a) After approval of a community redevelopment plan,
there may be established for each community redevelopment agency
created under s. 163.356 a redevelopment trust fund. Funds
allocated to and deposited into this fund shall be used by the
governing body to finance or refinance any community redevelopment it
undertakes pursuant to the approved community redevelopment
plan. No community redevelopment agency may receive or spend any
increment revenues pursuant to this section unless and until the
governing body has, by ordinance, created the trust fund and
provided for the funding of the redevelopment trust fund until
the time certain set forth in the community redevelopment plan
as required by s. 163.362(10). Such ordinance may be adopted
only after the governing body has approved a community
redevelopment plan. The annual funding of the redevelopment
trust fund shall be in an amount not less than that increment in
the income, proceeds, revenues, and funds of each taxing
authority derived from or held in connection with the
undertaking and carrying out of community redevelopment under
this part. Such increment shall be determined annually and shall
be that amount equal to 95 percent of the difference between:
1. The amount of ad valorem taxes levied each year by each
taxing authority, exclusive of any amount from any debt service
millage, on taxable real property contained within the
governmental boundaries of a community redevelopment area; and
2. The amount of ad valorem taxes which would have been
produced by the rate upon which the tax is levied each year by
or for each taxing authority, exclusive of any debt service
millage, upon the total of the assessed value of the taxable
property in the community redevelopment area as shown upon
the most recent assessment roll used in connection with the
taxation of such property by each taxing authority prior to the
effective date of the ordinance providing for the funding of the trust fund.
However, the governing body of any county as defined in s.
129.011(11) may, in the ordinance providing for the funding of a
trust fund established with respect to any community
redevelopment area created on or after July 1, 1994, determine
that the amount to be funded by each taxing authority annually
shall be less than 95 percent of the difference between
subparagraphs 1. and 2., but in no event shall such amount be
(6) Effective October 1, 2019, moneys in the redevelopment trust fund may be expended from time to time for undertakings of a community redevelopment agency as described in the community redevelopment plan only pursuant to an annual budget adopted by the board of commissioners of the community redevelopment agency and only for the following purposes specified in paragraph (c).

(a) Except as otherwise provided in this subsection, any community redevelopment agency shall comply with the requirements of s. 189.016.

(b) A community redevelopment agency created by a municipality shall submit its annual budget to the board of county commissioners for the county in which the agency is located within 10 days after the adoption of such budget and submit amendments of its annual budget to the board of county commissioners within 10 days after the adoption date of the amended budget. Administrative and overhead expenses necessary or incidental to the implementation of a community redevelopment plan adopted by the agency.

(c) The annual budget of a community redevelopment agency may provide for payment of the following expenses:

1. Administrative and overhead expenses directly or indirectly necessary to implement a community redevelopment plan adopted by the agency.

2. Expenses of redevelopment planning, surveys, and financial analysis, including the reimbursement of the governing body or the community redevelopment agency for such expenses incurred before the redevelopment plan was approved and adopted.

3. The acquisition of real property in the redevelopment area.

4. The clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants within or outside the community redevelopment area as provided in s. 163.370.

5. The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness.

6. All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of bonds, bond anticipation notes, or other form of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes, or other form of indebtedness.

7. The development of affordable housing within the community redevelopment area.

8. The development of community policing innovations.

9. Expenses that are necessary to exercise the powers granted under s. 163.370, as delegated under s. 163.358.

(7) On the last day of the fiscal year of the community redevelopment agency, any money which remains in the trust fund after the payment of expenses pursuant to subsection (6) for such year shall be:

(d) Appropriated to a specific redevelopment project pursuant to an approved community redevelopment plan. The funds appropriated for such project may not be changed unless the project is amended, redesigned, or delayed, in which case the funds must be reapportioned pursuant to the next annual budget.
(d) The agency shall provide by registered mail a copy of the audit report to each taxing authority.

Section 8. Subsection (3) of section 218.32, Florida Statutes, is amended to read:

165.387(8) to include with its annual financial report to the department a financial audit report for each community redevelopment agency created by that county or municipality that does not report any revenues, expenditures, or debt

(c) By November 1 of each year, the department must provide the Special District Accountability Program of the Department of Economic Opportunity with a list of each community redevelopment agency that does not report any revenues, expenditures, or debt for the community redevelopment agency's previous fiscal year.

Section 9. This act shall take effect October 1, 2019.
To: Senator Travis Hutson, Chair  
Appropriations Subcommittee on Transportation, Tourism, and Economic Development

Subject: Committee Agenda Request

Date: March 27, 2019

I respectfully request that Senate Bill #1054, relating to Community Redevelopment Agencies, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Tom Lee  
Florida Senate, District 20
The Florida Senate

Appearance Record

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 4/9/19

Bill Number (if applicable) SB 1053

Amendment Barcode (if applicable) 8/1054

Topic Community Redevelopment Agencies

Name Diego Echeverri

Job Title Director of Coalitions

Address 200 W College Ave

Street Tallahassee FL

City State Zip

Phone 813-767-2084

Email

Speaking: [ ] For [ ] Against [ ] Information Waive Speaking: [X] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Americans For Prosperity

Appearing at request of Chair: [ ] Yes [X] No Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
I. **Summary:**

PCS/SB 1306 creates a 16 member Women’s Suffrage Centennial Commission for the purpose of ensuring a suitable statewide observance of the centennial of women’s suffrage in 2020. The commission may establish a youth working group to advise and provide recommendations to the commission in fulfilling its duties. The commission is created adjunct to the Division of Historical Resources of the Department of State and, except as otherwise provided in the bill, must operate in a manner consistent with s. 20.052, F.S.

The bill provides for the expiration of the section on December 31, 2020.

The Department of State will incur costs associated with supporting the commission, including the costs of per diem and travel by the commission members.

The bill takes effect July 1, 2019.
II. **Present Situation:**

**Commission under Section 20.052, F.S.**

“Commission,” unless otherwise required by the State Constitution, is a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor and exercising limited quasi-legislative or quasi-judicial powers, or both.¹

Section 20.052, F.S., provides that each advisory body, commission, board of trustees, or any other collegial body created by specific statutory enactment as an adjunct to an executive agency must be established, evaluated, or maintained in accordance with certain requirements.² The private citizen members of an advisory body that is adjunct to an executive agency must be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer.³ Unless an exemption is otherwise specifically provided by law, all meetings of an advisory body are public meetings under s. 286.011, F.S.⁴

**Women’s Suffrage**

After decades of activism, women were granted the right to vote when the Nineteenth Amendment was ratified on August 18, 1920.⁵ The nineteenth amendment declares that “[t]he right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex. Congress shall have the power to enforce this article by appropriate legislation.” The year 2020 marks the 100th anniversary of women’s suffrage in the United States. Projects and events throughout the United States are underway to commemorate this historic milestone.⁶

III. **Effect of Proposed Changes:**

**Section 1** creates s. 267.0618, F.S., that establishes the Women’s Suffrage Centennial Commission adjunct to the Department of State. The purpose of the commission is to ensure a suitable statewide observance of the centennial of women’s suffrage in 2020.

The commission is to be composed of 16 members. The Governor must appoint:
- The chair of the commission, appointed by the Governor;
- The Secretary of State, or his or her designee;
- The director of the Division of Historical Resources of the Department of State;
- A women’s history scholar from a postsecondary educational institution in this state, appointed by the Governor;
- A member of the Florida Historical Commission, appointed by the Governor;

¹ Section 20.03(10), F.S.
² Section 20.052(1), F.S.
³ Section 20.052(5)(a), F.S.
⁴ Section 20.052(5)(c), F.S.
⁵ See Certification of the Adoption of the Nineteenth Amendment to the Constitution, 41 Stat. 1823 (1920).
Two members of the Florida Commission on the Status of Women, appointed by the Governor;
A member of the Florida Women’s Hall of Fame, appointed by the Governor;
A representative of the League of Women Voters of Florida, appointed by the Governor;
A historian, appointed by the Governor; and
Two citizen members, appointed by the Governor.

The President of the Senate and the Speaker of the House of Representatives must appoint two members each from their respective legislative chambers.

The appointed members of the commission serve at the pleasure of the appointing authority, and any vacancies must be filled in the same manner as the initial appointment was made. The commission is directed to meet as often as necessary to fulfill the duties prescribed.

The commission, to ensure a suitable statewide observance of the centennial of the passage and ratification of the Nineteenth Amendment to the United States Constitution, is charged with the following duties:

- Advise on the development of programs and activities appropriate to commemorate the centennial of women’s suffrage, and encourage development of such programs and activities to ensure that the commemoration results in a positive legacy and has long-term benefits.
- Facilitate the observance of women’s suffrage-related activities throughout the state.
- Encourage civic, historical, educational, economic, and other organizations throughout the state to organize and participate in activities to expand the understanding and appreciation of women’s suffrage while also recognizing the racial disparities that interfered with the exercise of the right to vote by women of color upon the enfranchisement of women.
- Coordinate and facilitate the public distribution of scholarly research, publication, and interpretation of women’s suffrage.
- Coordinate with the Department of Education regarding the manner in which the centennial of women’s suffrage will be commemorated in the state’s public secondary schools.
- Assist the Department of State in developing a statewide public awareness campaign on the centennial of women’s suffrage through such means as, but not limited to, public service announcements, outdoor advertising, and a website.
- Encourage local organizations and nonprofit organizations to further the commemoration of the centennial of women’s suffrage.

The bill permits the commission to establish a youth working group to advise and provide recommendations to the commission. Members of the youth working group must serve on a volunteer basis, be Florida residents, be between the ages of 15 and 30 years of age, identify as women, and demonstrate an interest in history. Members of the youth working group are to be appointed by the chair of the commission, upon review of applications.

The bill provides that the Division of Historical Resources of the Department of State shall provide administrative and staff support for the commission.

Section 119.011(2) defines “agency” as
Any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

The commission functions as part of the Division of Historical Resources of the Department of State and qualifies as an “agency” as set forth in s. 119.011(2), F.S. Accordingly, the commission is subject to the requirements of ch. 119, F.S. Within 30 days of the abolishment of the commission, pursuant to s. 20.052(5)(d), F.S., the Department of State is charged with storing the commission’s records appropriately and reclaiming any property assigned to the commission.

The bill provides that this section will expire on December 31, 2020.

Section 2 provides that the bill’s effective date is July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None. However, any meetings of the commission are public meetings and must be open to the public.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.
B. Private Sector Impact:
None.

C. Government Sector Impact:

Department of State will incur costs associated with supporting the commission, including the costs of per diem and travel by the commission members. The Division of Historical Resources of the Department of State can coordinate the meeting for the commission utilizing existing staff time and resources. If the commission decides under the duties outlined to producing materials for distribution, then the division may need additional funding in the future. The DOS estimates this cost to be from $40,000 to $60,000.7

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 267.0618 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on April 9, 2019:
The committee substitute creates s. 267.0618, F.S., to establish the Women’s Suffrage Centennial Commission, instead of a committee.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.+

7 Email from Brittany Dover, Legislative Affairs Director, Department of State, April 2, 2019 (on file with the staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development).
Appropriations Subcommittee on Transportation, Tourism, and Economic Development (Book) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Section 267.0618, Florida Statutes, is created to read:

267.0618 The Women’s Suffrage Centennial Commission.—
(1) The Women’s Suffrage Centennial Commission, a commission as defined in s. 20.03(10) is created adjunct to the
Department of State for the express purpose of ensuring a suitable statewide observance of the centennial of women’s suffrage in 2020. Except as otherwise provided in this section, the commission shall operate in a manner consistent with s. 20.052.

(2) The commission is composed of the following members:
   (a) The chair of the commission, appointed by the Governor.
   (b) The Secretary of State, or his or her designee.
   (c) The director of the Division of Historical Resources of the Department of State.
   (d) Two members of the Senate, appointed by the President of the Senate.
   (e) Two members of the House of Representatives, appointed by the Speaker of the House of Representatives.
   (f) A women’s history scholar from a postsecondary educational institution in this state, appointed by the Governor.
   (g) A member of the Florida Historical Commission, appointed by the Governor.
   (h) Two members of the Florida Commission on the Status of Women, appointed by the Governor.
   (i) A member of the Florida Women’s Hall of Fame, appointed by the Governor.
   (j) A representative of the League of Women Voters of Florida, appointed by the Governor.
   (k) A historian, appointed by the Governor.
   (l) Two citizen members, appointed by the Governor.

(3) Appointed members of the commission shall serve at the pleasure of the appointing authority and any vacancies shall be
filled in the same manner as the initial appointment. The commission may meet as often as it deems necessary to fulfill the duties prescribed in this section.

(4) In ensuring a suitable statewide observance of the centennial of the passage and ratification of the Nineteenth Amendment to the United States Constitution, the commission has the following duties:

(a) Advise on the development of programs and activities appropriate to commemorate the centennial of women’s suffrage, and encourage the development of such programs and activities to ensure that the commemoration results in a positive legacy and has long-term benefits.

(b) Facilitate the observance of women’s suffrage-related activities throughout the state.

(c) Encourage civic, historical, educational, economic, and other organizations throughout the state to organize and participate in activities to expand the understanding and appreciation of women’s suffrage while also recognizing the racial disparities that interfered with the exercise of the right to vote by women of color upon the enfranchisement of women.

(d) Coordinate and facilitate the public distribution of scholarly research, publication, and interpretation of women’s suffrage.

(e) Coordinate with the Department of Education regarding the manner in which the centennial of women’s suffrage will be commemorated in the state’s public secondary schools.

(f) Assist the Department of State in developing a statewide public awareness campaign on the centennial of women’s
suffrage through such means as, but not limited to, public
service announcements, outdoor advertising, and a website.

(g) Encourage local organizations and nonprofit
organizations to further the commemoration of the centennial of
women’s suffrage.

(5) The commission may establish a youth working group to
advise and provide recommendations to the commission in
fulfilling its duties and responsibilities. Members of the youth
working group shall serve on a volunteer basis and must be
residents of this state between 15 and 30 years of age who
identify as women and demonstrate an interest in history. The
chair of the commission shall appoint members of the working
group upon review of applications.

(6) The Division of Historical Resources of the Department
of State shall provide administrative and staff support for the
commission.

(7) This section expires December 31, 2020.

Section 2. This act shall take effect July 1, 2019.

And the title is amended as follows:
Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to the Women’s Suffrage Centennial
Commission; creating the commission adjunct to the
Department of State; providing for the purpose of the
commission; specifying the composition of the
commission and requirements of commission members;
prescribing duties of the commission in order to
ensure a suitable statewide observance of the
centennial of women’s suffrage; providing for the
establishment of a youth working group; requiring the
Division of Historical Resources of the department to
provide administrative and staff support; providing
for expiration of the act; providing an effective
date.
Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The Women’s Suffrage Centennial Commemoration Committee, a committee as defined in s. 20.03(8), Florida Statutes, is created adjunct to the Department of State for the express purpose of ensuring a suitable statewide observance of the centennial of women’s suffrage in 2020. Except as otherwise provided in this section, the committee shall operate in a manner consistent with s. 20.052, Florida Statutes.

(2) The committee is composed of the following members:
(a) The chair of the committee, appointed by the Governor.
(b) The Secretary of State, or his or her designee.
(c) The director of the Division of Historical Resources of the Department of State.
(d) Two members of the Senate, appointed by the President of the Senate.
(e) Two members of the House of Representatives, appointed by the Speaker of the House of Representatives.
(f) A women’s history scholar from a postsecondary educational institution in this state, appointed by the Governor.
(g) A member of the Florida Historical Commission, appointed by the Governor.
(h) Two members of the Florida Commission on the Status of Women, appointed by the Governor.
(i) A member of the Florida Women’s Hall of Fame, appointed by the Governor.
(j) A representative of the League of Women Voters of Florida, appointed by the Governor.
(k) A historian, appointed by the Governor.
(l) Two citizen members, appointed by the Governor.

(3) Appointed members of the committee shall serve at the pleasure of the appointing authority and any vacancies shall be filled in the same manner as the initial appointment. The committee may meet as often as it deems necessary to fulfill the duties prescribed in this section.

(4) In ensuring a suitable statewide observance of the centennial of the passage and ratification of the Nineteenth Amendment to the United States Constitution, the committee has the following duties:
(a) Advise on the development of programs and activities appropriate to commemorate the centennial of women’s suffrage, and encourage the development of such programs and activities to
ensure that the commemoration results in a positive legacy and
has long-term benefits.

(b) Facilitate the observance of women’s suffrage-related
activities throughout the state.

(c) Encourage civic, historical, educational, economic, and
other organizations throughout the state to organize and
participate in activities to expand the understanding and
appreciation of women’s suffrage while also recognizing the
racial disparities that interfered with the exercise of the
right to vote by women of color upon the enfranchisement of
women.

(d) Coordinate and facilitate the public distribution of
scholarly research, publication, and interpretation of women’s
suffrage.

(e) Coordinate with the Department of Education regarding
the manner in which the centennial of women’s suffrage will be
commemorated in the state’s public secondary schools.

(f) Assist the Department of State in developing a
statewide public awareness campaign on the centennial of women’s
suffrage through such means as, but not limited to, public
service announcements, outdoor advertising, and a website.

(g) Encourage local organizations and nonprofit
organizations to further the commemoration of the centennial of
women’s suffrage.

(5) The committee may establish a youth working group to
advise and provide recommendations to the committee in
fulfilling its duties and responsibilities. Members of the youth
working group shall serve on a volunteer basis and must be
residents of this state between 15 and 30 years of age who

CODING: Words struck are deletions; words underlined are additions.

(6) The Division of Historical Resources of the Department
of State shall provide administrative and staff support for the
committee.

(7) This section expires December 31, 2020.

Section 2. This act shall take effect July 1, 2019.
April 1, 2019

Chair Travis Hutson
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Hutson:

Today, SB 1306—Women’s Suffrage Centennial Commenoration Committee favorably passed its first committee stop. In anticipation of the bill being placed in the Appropriations Subcommittee on Transportation, Tourism, and Economic Development, I respectfully request that the bill be placed on the next committee meeting agenda.

Should you have any questions or concerns, please feel free to contact my office or me. Thank you in advance for your consideration.

Thank you,

Senator Lauren Book
Senate District 32

Cc: Jennifer Hrdlicka, Staff Director
Tempie Sailors, Administrative Assistant
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 4-9-19

Bill Number (if applicable) SB 1306

Amendment Barcode (if applicable)

Topic

Name Bob Harris

Job Title

Address Street

City

State

Zip

Phone

Email

Speaking: [] For [x] Against [] Information

Wkave Speaking: [] In Support [x] Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: [x] Yes [] No

Lobbyist registered with Legislature: [x] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
Jennifer,

Below is a statement from us relating to the fiscal impact HB 1359/SB 1306 has on the Department of State. We are currently working on a full bill analysis but this will give you some information to work with in the meantime.

Let me know if you have any questions.

Thank you!
Brittany

The Division of Historical Resources can coordinate the meetings for the committee utilizing existing staff time and resources. The Department would need some additional funding appropriated if it is determined by the Committee under the duties outlined in the bill would result in producing materials for distribution. For example the cost of activities and programs produced or the development and public distribution of a publication for women’s suffrage. The Department did produce a Women’s Heritage Trail (online only) in 2001 and it would need to be updated, which would require significant staff time (two full time staff, at least) to research and develop content for a women’s suffrage document, or something like a “women’s history trail.” If we were to contract out for this kind of document, we would estimate a fiscal need of $40,000-$60,000 in Contracted Services to produce.
The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT
(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: PCS/SB 7096 (318826)

INTRODUCER: Appropriations Subcommittee on Transportation, Tourism, and Economic Development; and Judiciary Committee

SUBJECT: Constitutional Amendments

DATE: April 11, 2019

ANALYST STAFF DIRECTOR REFERENCE ACTION
Stallard Cibula
Wells Hrdlicka ATD JU Submitted as Committee Bill
1. Recommend: Fav/CS
2. AP

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 7096 revises the requirements governing the process in which a constitutional amendment is proposed by a citizen initiative. More particularly, the bill:

- Requires a compensated “petition gatherer” to register with the Secretary of State, attesting that he or she has been a Florida resident for at least 29 days before registering and has not been convicted or found guilty of a felony of a crime involving fraud, dishonesty, or deceit.
- Disqualifies petitions from counting toward the number of petitions required for an initiative amendment to appear on the ballot if they are collected by:
  - An unregistered petition gatherer; or
  - A petition gatherer or entity who is compensated on a per-signature basis.
- Prohibits compensation to petition-gatherers on a per-signature basis by creating a first degree misdemeanor.
- Requires the Department of State to post position statements by any interested person on a ballot initiative online.
- Requires the Financial Impact Estimating Conference to determine the financial impact of the initiative on state and local economies.
- Requires the ballot for an initiative amendment to include:
  - The name of the amendment’s sponsor and the percentage of contributions received by the sponsor from in-state persons, excluding political parties, affiliated party committees, or political committees.
A bold-print statement describing the financial impact of the initiative on both the state and local economies if the Financial Impact Estimating Conference determines that the measure will increase costs, decrease revenue, or have an indeterminate fiscal impact.

- Requires the supervisors of elections and the Department of State to furnish additional information on initiatives to electors.

The bill will increase state and local expenditures.
The bill is effective upon becoming law and applies to all initiative amendments proposed for the 2020 ballot and thereafter. However, nothing in the bill affects the validity of a petition gathered before or within 40 days after the bill becomes law.

II. Present Situation:

Overview

A citizen initiative is one of the five sources from which a constitutional amendment may originate.¹ Like any proposed amendment, an amendment that begins as a citizen initiative becomes effective when it is approved by at least 60 percent of the votes cast on the measure at a general election.² However, prior to appearing on a ballot, the law prescribes a multi-step process that must be completed in order for an amendment to qualify for the ballot. Many of these steps are designed to ensure the integrity of the ballot and to inform voters of the effect of the proposals.

Registration of the Sponsor and the Beginning of the Process

First, the sponsor must register as a political committee and submit the text of the proposed amendment to the Secretary of State. The sponsor must also submit the petition form on which the sponsor will collect signatures of the Florida voters who want the amendment placed on the ballot.³ Under the Florida Constitution, the number of signatures required for placement on the ballot is 8 percent of the number of people who voted in the last presidential election.⁴ For instance, 766,200 signatures were required to place an initiative amendment on the 2018 General Election ballot.⁵

Submission to the Supervisor of Elections

After obtaining the required number of signatures, the sponsor must present each signed form to the supervisor of elections in the signors’ counties of residence.⁶ The supervisor of elections must check several things regarding each signature, including that it is the “original signature” of

¹ FLA. CONST. art. XI, s. 3. The other four sources are the Taxation and Budget Reform Commission, the Legislature, the Constitution Revision Commission, and a constitutional convention.
² FLA. CONST. art. XI, s. 5.
³ Sections 100.371(2) and 15.21(1), F.S.
⁴ However, the number must come from at least 14 of this state’s 27 congressional districts. FLA. CONST. art. XI s. 3; Florida Dept. of State, 2018 Initiative Petition Handbook, last updated March 16, 2017, p. 1, https://dos.myflorida.com/media/697659/initiative-petition-handbook-2018-election-cycle-eng.pdf (last visited April 4, 2019).
⁶ Section 100.371(3), F.S.
a qualified and registered voter of that county. The Florida Supreme Court has recognized that the Legislature has a duty and obligation to ensure ballot integrity and that the verification of signatures on initiative petitions is an element of ballot integrity.

**Submission to the Secretary of State**

The supervisor of elections must submit each qualifying signature to the Secretary of State. When the Secretary of State receives a certain number of qualifying signatures (roughly 10 percent what is required for placement on the ballot) he or she must submit the initiative amendment to the Attorney General and to the Financial Impact Estimating Conference (FIEC).

**Financial Review by the FIEC**

The FIEC, within 45 days after receiving an initiative amendment, must complete an analysis and “financial impact statement.” The FIEC must also complete a more-detailed “initiative financial information statement,” which the Department of State must distribute to supervisors of elections and must make available on the Internet.

The financial impact statement, which is to be placed on the ballot, is a statement of 75 words or less as to “the estimated increase or decrease in any revenues or costs to state or local governments resulting from the proposed initiative.” The FIEC must immediately submit the financial impact statement to the Attorney General.

**Certification of Ballot Position**

If the Secretary of State determines that it has received, by February 1 of the year of a general election year, valid and verified petition forms signed by the constitutionally required number of voters, he or she must assign the amendment a number and certify its ballot position.

---

7 Section 100.371(3), F.S. This provision also requires the supervisor of elections to ensure, as to each signature, that the form contains the voter’s name, address, city, county, and voter registration number or date of birth.

8 *Citizens Proposition for Tax Relief v. Firestone*, 386 So. 2d 561, 566-567 (Fla. 1980); see also *Floridians Against Expanded Gambling v. Floridians for a Level Playing Field*, 945 So. 2d 553, 558 (Fla. 1st DCA 2006) (In this case, challengers to an initiative alleged that paid petition gatherers were paid up to $6.50 per petition and that these individuals forged signatures on a large number of petitions.)

9 Section 100.371(4), F.S.

10 Section 15.21(3), F.S. The precise threshold is 10 percent of 8 percent of the people who voted in the previous presidential election in 7 of this state’s congressional districts. For district-by-district breakdown of these numbers, see Florida Dept. of State, *2018 Initiative Petition Handbook*, at p. 8 (Appendix B: Congressional District Requirements).

11 Section 100.371(5)(a), F.S

12 See s. 100.371(5)(e)3.-5., F.S.

13 Section 100.371(5)(c)2. and (d), F.S.

14 Section 100.371(5)(c)2., F.S.

15 Section 100.371(1) and (4), F.S.
Review by the Florida Supreme Court

The Attorney General must petition the Florida Supreme Court for an advisory opinion on the validity of the amendment. The Supreme Court applies a deferential standard of review of the initiative amendments which is limited to the legal sufficiency of the proposals. This review includes an examination of the ballot title and ballot summary for compliance with the requirement that they provide accurate information to voters. The Supreme Court has explained that

the gist of the constitutional accuracy requirement is simple: A ballot title and summary cannot either “fly under false colors” or “hide the ball” as to the amendment’s true effect.

The Court, therefore, does not address the “merits or wisdom” of the amendment and has repeatedly stated that it has a duty to uphold a proposal unless it is “clearly and conclusively defective.” The Supreme Court’s review does, however, include the legal validity of the financial impact statement. Nonetheless, even if the financial impact statement is deficient, it can be cured, time permitting. Even if it cannot be cured, the initiative amendment may still proceed to the ballot.

III. Effect of Proposed Changes:

The bill makes several changes to statutes regulating the citizen initiative process.

Regulation of Petition Gatherers (Section 1, amending s. 100.371, F.S.; Section 4, creating s. 104.186, F.S.)

Currently, the Florida Statutes do not appear to directly regulate “petition gatherers.” Under the bill, a petition gatherer is a person who works toward obtaining the required number of signatures for an initiative amendment to be placed on the general election ballot. If a person gathers petitions for compensation, he or she must be a resident of this state and must register with the Secretary of State before gathering signatures. When a compensated petition gatherer registers with the Secretary of State, he or she must provide:

- His or her name, date of birth, residential address;
- An attestation that he or she:
  - Has been a Florida resident for at least the preceding 29 days; and
  - Has not been convicted or found guilty, regardless of adjudication, a felony in this state, any other state, or the U.S. of a crime involving fraud, dishonesty, or deceit.

Any signature collected by an unregistered compensated petition gatherer is invalid and does not count toward the number of required signatures to place an initiative amendment on the ballot.

---

16 Fla. Const. art IV, s. 10.
17 Advisory Opinion to the Attorney General re Rights of Electricity Consumers Regarding Solar Energy Choice, 188 So. 3d 822, 827 (Fla. 2016) (internal citations omitted).
18 Armstrong v. Harris, 773 So. 2d 7, 16 (Fla. 2000).
19 Armstrong, 773 So. 2d. at 11.
20 See, e.g., Advisory Opinion, 188 So. 3d at 833-34.
21 See s. 100.371(5)(c)2., F.S.
22 See s. 100.371(5)(c)3., F.S.
The Secretary of State must maintain a searchable database of registered petition gatherers.

The bill further prohibits a person from compensating a petition gatherer on a per-signature basis. A person who compensates a petition gatherer in this manner commits a first degree misdemeanor.\(^{23}\) Moreover, a petition gathered in violation of this provision is void. The ban on per-signature compensation takes effect 41 days after the bill becomes law.

**Required Estimate of an Initiative Amendment’s Impact on the State and Local Economy**

*(Section 1, amending s. 100.371, F.S.)*

The bill requires the Financial Impact Estimating Conference (FIEC) to include in its analysis an additional estimation of the proposed amendment’s impact on the state and local economies. Accordingly, the bill increases the FIEC’s timeframe for completing its analysis from 45 days to 60 days after receiving an initiative amendment.

**Initiative Amendment Ballots that are More Informative**

*(Section 2, amending s. 101.161, F.S.)*

In addition to the information required under current law, the bill requires the ballot for an initiative amendment to include:

- The name of the amendment’s sponsor.
- The percentage of contributions received by the sponsor from in-state persons, excluding political parties, affiliated party committees, and political committees.\(^{24}\)
- A statement in bold print describing the fiscal impact of the initiative on the state and local economies (applies if the FIEC estimates that the amendment will increase costs or decrease revenues, a range of such costs or revenues, or an indeterminate fiscal impact).

**Publication Requirements**

*(Section 1, amending s. 100.371, F.S.; Section 3, amending s. 101.171, F.S.)*

The bill provides that once the Secretary of State certifies a proposed amendment for ballot placement, an interested person may file a position statement not exceeding 50 words with the Secretary to be published on the Department of State’s website page for constitutional amendments.

The bill also requires each county supervisor of elections to include a copy of:

- The FIEC’s financial information summary in the publication or mailing of sample ballots;\(^{25}\)

---

\(^{23}\) A first degree misdemeanor is punishable by up to 1 year of jail time and a fine of up to $1,000. Sections 775.082 and 775.083, F.S.

\(^{24}\) Section 106.011(14), F.S., defines “person” as means an individual or a corporation, association, firm, partnership, joint venture, joint stock company, club, organization, estate, trust, business trust, syndicate, or other combination of individuals having collective capacity. The term includes a political party, affiliated party committee, or political committee.

\(^{25}\) Section 101.20, F.S., requires the supervisor of elections to publish a sample ballot in a newspaper of general circulation in the county. The supervisor may send a sample ballot to each registered elector by email, if opted by the elector, or by mail to each elector or household where there is an elector at least seven days before the election.
The proposed amendment text in each voting booth.\textsuperscript{26}

Effective Date and Application (Sections 5 and 6)

The bill is effective upon becoming a law. Its changes apply to all initiative amendments proposed for the 2020 ballot and thereafter. However, nothing in the bill affects the validity of a petition gathered before or within 40 days after the bill becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenue.

Subsection (a) of Art. VII, s. 18 of the Florida Constitution provides that no county or municipality is bound by and general law requiring the expenditure of funds, unless the Legislature has determined that the law fulfills an important state interest and meets one additional factor, including approval of the law by each house of the Legislature by two-thirds vote of its membership.

However, these requirements do not apply to election laws.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Constitutionality of Pay-Per-Signature Ban and Petition Gatherer Residency Requirements

Two of the bill’s key provisions have been upheld as constitutional by some courts, yet found unconstitutional by others.

\textsuperscript{26} Section 101.171, F.S., requires the Department of State to provide each supervisor of elections a sufficient number of copies of any amendment to the constitution, either in poster or booklet form.
At least two courts, including a federal appellate court, have upheld in-state residency requirements for petition gatherers. However, at least four federal appellate courts have held that these prohibitions violated citizens’ First Amendment free speech rights.

Bans on compensating petition gatherers on a per-signature basis have had similarly mixed reviews by the courts. One federal appellate court has upheld a ban. However, two federal trial courts have struck down these bans as violations, again, of First Amendment free speech rights.

Florida Case Law on Regulation of the Citizen Initiative Process in General

The Florida Supreme Court’s opinion in Browning v. Florida Hometown Democracy, Inc., PAC, 29 So. 3d 1053, 1058 (Fla. 2010), declared a statutory scheme allowing a person to revoke a signature on an initiative petition was unconstitutional. In reaching its conclusion, the Court provided the following rule for assessing the constitutionality of a law regulating citizen initiative amendments:

[L]egislative and executive measures affecting the initiative process that are neither expressly authorized in article XI, sections 3 and 5, nor implicitly contemplated by these constitutional provisions, must be necessary for ballot integrity.

Nonetheless, the Court acknowledged that “the Legislature and Secretary of State have an obligation to ensure ballot integrity and a valid election,” yet have only “limited authority to adopt regulations that affect the initiative process.”

It is not clear that any of the bill’s measures are expressly authorized in Art. XI, ss. 3 or 5 of the Florida Constitution. However, they might be implicitly contemplated by these provisions. Article XI, s. 3 of the Florida Constitution reserves the power to propose amendments by initiative to the “people.” This bill might be implicitly contemplated by that reservation of power as it appears intended to inform voters of the extent to which a proposed amendment is supported by people in this state and to supply additional information about the potential fiscal impact of constitutional amendments on state residents.

---

28 See Libertarian Party of Virginia v. Judd, 718 F. 3d 308 (4th Cir. 2013); Yes on Term Limits, Inc. v. Savage, 550 F. 3d 1023 (10th Cir. 2008); Nader v. Blackwell, 545 F. 3d 459 (6th Cir. 2008); Nader v. Brewer, 531 F. 3d 1028 (9th Cir. 2008).
29 See Prete v. Bradbury, 438 F. 3d 949 (9th Cir. 2006).
31 Browning v. Florida Hometown Democracy, Inc., PAC, 29 So. 3d 1053, 1057-58 (Fla. 2010) (quoting Smith v. Coalition to Reduce Class Size, 827 So. 2d 959, 962 (Fla. 2002)).
V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Initiative petition gathers will be required to register with the Department of State and will not be permitted to be paid based upon per-signature compensation structure.

C. Government Sector Impact:

The bill will result in increased costs to state and local governments.

The bill requires the Secretary of State to post position statements on proposed initiative amendments on its website and to create a registry of compensated petition-gatherers that is searchable and includes specific information. The bill also requires the FIEC and the Florida Supreme Court to perform more analyses than under current law.

The bill requires the Department of State to provide each supervisor of elections a sufficient number of copies of any amendment to the constitution, either in poster or booklet form, to be posed or available at each voting booth. The cost to the department to furnish the sufficient number of copies is indeterminate and would be based upon the number of voting booths each supervisor of elections may set up for the election.

The bill requires each supervisor of elections to include a copy of the financial information summary in the publication of the sample ballot in the newspaper of general circulation in the county or in the mailing of the sample ballots to electors, should supervisors of elections choose to make such mailings. This will increase costs to the supervisors of elections, dependent on whether the supervisor decides to include the summary in the publication in the newspaper or in the mailing of sample ballots or both.

The bill creates a new first degree misdemeanor, which could increase local jail populations or increase fines collected. The fiscal impact of this new criminal penalty is expected to be minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.
VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 100.371, 101.161, and 101.171.

This bill creates section 104.186 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

( Summarizing differences between the Committee Substitute and the prior version of the bill. )

**Recommended CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on April 9, 2019:**

The committee substitute requires a petition gatherer to attest that he or she has not been convicted or found guilty of a felony for fraud, dishonesty, or deceit.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
Appropriations Subcommittee on Transportation, Tourism, and Economic Development (Simmons) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 45 - 51

and insert:

(3)(a) Before obtaining signatures for compensation, a petition gatherer must register with the Secretary of State on a form prepared by the secretary. To register, the registrant must provide:

1. His or her name, date of birth, and residential address.
2. An attestation that he or she has been a Florida
3. An attestation that he or she has not been convicted or found guilty of, regardless of adjudication to, a felony in this state or any other state or of the United States of a crime involving fraud, dishonesty, or deceit.

(b) The secretary shall maintain a searchable database of registered petition gatherers.

And the title is amended as follows:

Delete lines 5 - 7

and insert:

to attest that he or she has been a Florida resident for a specified period and that he or she has not been convicted or found guilty of a crime involving, fraud, dishonesty or deceit; requiring the Secretary of State to
By the Committee on Judiciary

A bill to be entitled

An act relating to constitutional amendments; amending s. 100.371, F.S.; requiring a compensated petition gatherer to register with the Secretary of State and to attest that he or she is a Florida resident for a specified period before obtaining signatures on petition forms; requiring the Secretary of State to maintain a searchable database of such forms; revising requirements regarding the supervisor of elections' determination of a petition form's validity; authorizing interested persons to submit position statements on initiatives for publication on the Department of State’s website; extending the timeframe for the Financial Impact Estimating Conference to complete its analysis of an initiative; requiring the analysis to summarize the impact to the state and local economies; requiring each supervisor to include a copy of the summary in the publication or mailing of a sample ballot; amending s. 101.161, F.S.; requiring the name of the sponsor of an initiative to appear on the ballot with the percentage of donations received from certain in-state donors; defining the term "person"; requiring a statement to appear on the ballot if the amendment is estimated to increase costs, decrease revenues, or have an indeterminate economic impact; amending s. 101.171, F.S.; requiring a copy of proposed amendments be provided in each voting booth; creating s. 104.186, F.S.; prohibiting compensation for initiative petition gatherers or entities based on the number of petitions gathered; providing a penalty; invalidating petitions that are unlawfully gathered; providing for application; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsection (3) of section 100.371, Florida Statutes, is renumbered as subsection (4), present subsections (4) through (7) of that section are renumbered as subsections (6) through (9), respectively, new subsections (3) and (5) are added to that section, and present subsection (3), paragraphs (a) and (e) of present subsection (5), and present subsection (6) of that section are amended, to read:

100.371 Initiatives; procedure for placement on ballot.—
(3) Before obtaining signatures for compensation, a petition gatherer must register with the Secretary of State on a form prepared by the Secretary. The registrant must provide his or her name, date of birth, residential address, and attestation that he or she has been a Florida resident for at least 29 days before submitting the registration form. The Secretary shall maintain a searchable database of registered petition gatherers.

(4) An initiative petition form circulated for signature may not be bundled with or attached to any other petition. Each signature shall be dated when made and shall be valid for a period of 2 years following such date, provided all other requirements of law are met. The sponsor shall submit signed and dated forms to the supervisor of elections for the county of residence listed by the person signing the form for verification.
of the number of valid signatures obtained. If a signature on a
petition is from a registered voter in another county, the
supervisor shall notify the petition sponsor of the misfiled
petition. The supervisor shall promptly verify the signatures
within 30 days after receipt of the petition forms and payment
of the fee required by s. 99.097. The supervisor shall promptly
record, in the manner prescribed by the Secretary of State, the
date each form is received by the supervisor, and the date the
signature on the form is verified as valid. The supervisor may
verify that the signature on a form is valid only if:
   (a) The form contains the original signature of the
purported elector.
   (b) The purported elector has accurately recorded on the
form the date on which he or she signed the form.
   (c) The form sets forth the purported elector's name,
address, city, county, and voter registration number or date of
birth.
   (d) The purported elector is, at the time he or she signs
the form and at the time the form is verified, a duly qualified
and registered elector in the state.
   (e) The petition gatherer who collected the petition is
registered with the Secretary of State under subsection (3).

The supervisor shall retain the signature forms for at least 1
year following the election in which the issue appeared on the
ballot or until the Division of Elections notifies the
supervisors of elections that the committee that circulated the
petition is no longer seeking to obtain ballot position.

(5) Upon determining that a constitutional amendment
proposed by initiative has met the requirements to be placed on
the ballot, the Secretary of State shall allow any interested
person to file a position statement of not more than 50 words
outlining why the person supports or opposes the amendment. The
secretary shall publish each position statement on the webpage
for constitutional amendments on the department's website.

(7)(a) Within 60 days after receipt of a proposed
revision or amendment to the State Constitution by initiative
petition from the Secretary of State, the Financial Impact
Estimating Conference shall complete an analysis and financial
impact statement to be placed on the ballot of the estimated
increase or decrease in any revenues or costs to state or local
governments and the estimated economic impact on both the state
and local economies resulting from the proposed initiative. The
Financial Impact Estimating Conference shall submit the
financial impact statement to the Attorney General and Secretary
of State.

(e)1. Any financial impact statement that the Supreme Court
finds not to be in accordance with this subsection shall be
remanded solely to the Financial Impact Estimating Conference
for redrafting, provided the court's advisory opinion is
rendered at least 75 days before the election at which the
question of ratifying the amendment will be presented. The
Financial Impact Estimating Conference shall prepare and adopt a
revised financial impact statement no later than 5 p.m. on the
15th day after the date of the court's opinion.

2. If, by 5 p.m. on the 75th day before the election, the
Supreme Court has not issued an advisory opinion on the initial
financial impact statement prepared by the Financial Impact
Florida Senate - 2019 SB 7096

590-03710-19 20197096__

117 Estimating Conference for an initiative amendment that otherwise
118 meets the legal requirements for ballot placement, the financial
119 impact statement shall be deemed approved for placement on the
120 ballot.
121
3. In addition to the financial impact statement required
122 by this subsection, the Financial Impact Estimating Conference
123 shall draft an initiative financial information statement. The
124 initiative financial information statement should describe in
125 greater detail than the financial impact statement any projected
126 increase or decrease in revenues or costs that the state or
127 local governments would likely experience and the estimated
128 economic impact on both the state and local economies if the
129 ballot measure were approved. If appropriate, the initiative
130 financial information statement may include both estimated
131 dollar amounts and a description placing the estimated dollar
132 amounts into context. The initiative financial information
133 statement must include both a summary of not more than 500 words
134 and additional detailed information that includes the
135 assumptions that were made to develop the financial impacts,
136 workpapers, and any other information deemed relevant by the
138
4. The Department of State shall have printed, and shall
139 furnish to each supervisor of elections, a copy of the summary
140 from the initiative financial information statements. The
141 supervisors shall have the summary from the initiative financial
142 information statements available at each polling place and at
143 the main office of the supervisor of elections upon request.
144
5. The Secretary of State and the Office of Economic and
145 Demographic Research shall make available on the Internet each

Page 5 of 8

CODING: Words underlined are deletions; words underlined are additions.

Florida Senate - 2019 SB 7096

590-03710-19 20197096__

146 initiative financial information statement in its entirety. In
147 addition, each supervisor of elections whose office has a
148 website shall post the summary from each initiative financial
149 information statement on the website. Each supervisor shall
150 include a copy of each summary from the initiative financial
151 information statements and the Internet addresses for the
152 information statements on the Secretary of State’s and the
153 Office of Economic and Demographic Research’s websites in the
154 publication or mailing required by s. 101.20.
155
8. The Department of State may adopt rules in
156 accordance with s. 120.54 to carry out the provisions of
157 subsections (1)-(7) (4)-(5).
158
Section 2. Subsection (1) of section 101.161, Florida
159 Statutes, is amended to read:
160 101.161 Referenda; ballots.—
161 (1) Whenever a constitutional amendment or other public
162 measure is submitted to the vote of the people, a ballot summary
163 of such amendment or other public measure shall be printed in
164 clear and unambiguous language on the ballot after the list of
165 candidates, followed by the word “yes” and also by the word
166 “no,” and shall be styled in such a manner that a “yes” vote
167 will indicate approval of the proposal and a “no” vote will
168 indicate rejection. The ballot summary of the amendment or other
169 public measure and the ballot title to appear on the ballot
170 shall be embodied in the constitutional revision commission
171 proposal, constitutional convention proposal, taxation and
172 budget reform commission proposal, or enabling resolution or
173 ordinance. The ballot summary of the amendment or other public
174 measure shall be an explanatory statement, not exceeding 75

Page 6 of 8

CODING: Words underlined are deletions; words underlined are additions.
words in length, of the chief purpose of the measure. In
addition, for every amendment proposed by initiative, the ballot
shall include, following the ballot summary, in the following
order:
(a) The name of the initiative’s sponsor and the percentage
of total contributions obtained by the sponsor from in-state
persons. For purposes of this subparagraph, the term “person”
has the same meaning as provided in s. 106.011(14), except that
the term does not include a political party, an affiliated party
committee, or a political committee.
(b) A separate financial impact statement concerning the
measure prepared by the Financial Impact Estimating Conference
in accordance with s. 100.371(5).
(c) If the financial impact statement estimates increased
costs or decreased revenues, a range that includes increased
costs or decreased revenues, or an indeterminate economic impact
a statement in bold print describing the impact of the
initiative on both the state and local economies.

The ballot title shall consist of a caption, not exceeding 15
words in length, by which the measure is commonly referred to or
spoken of. This subsection does not apply to constitutional
amendments or revisions proposed by joint resolution.

Section 3. Section 101.171, Florida Statutes, is amended to
read:
101.171 Copy of constitutional amendment to be available at
voting locations.—Whenever any amendment to the State
Constitution is to be voted upon at any election, the Department
of State shall have printed and shall furnish to each supervisor
of elections a sufficient number of copies of the amendment
either in poster or booklet form, and the supervisor shall have
a copy thereof conspicuously posted or available at each voting
booth, polling room or early voting area upon the day of
election.

Section 4. Effective 41 days after the effective date of
this act, section 104.186, Florida Statutes, is created to read:
104.186 Initiative petitions; prohibition on compensation
based on the number of petitions gathered.—A person who
compensates an initiative petition gatherer or entity based on
the number of petitions gathered commits a misdemeanor of the
first degree, punishable as provided in s. 775.082 or s.
775.083. A petition gathered in violation of this section is
void.

Section 5. The provisions of this act apply to all
revisions or amendments to the State Constitution by initiative
which are proposed for the 2020 election ballot; however, this
act does not affect the validity of any petition gathered before
or within 40 days after this act’s effective date.

Section 6. Except as otherwise expressly provided in this
act, this act shall take effect upon becoming a law.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date
04/09/2019

Bill Number (if applicable)
SB 7094

Amendment Barcode (if applicable)

Topic
SENATE TRANSPORTATION, TOURISM & ECONOMIC DEVELOPMENT

Name
MATTHEW KELLY

Job Title

Address
2105 NE 55th St.

OCALA FL 34479

City State Zip

Phone

Email

Speaking: □ For □ Against □ Information

Waive Speaking: □ In Support □ Against
(The Chair will read this information into the record.)

Representing
SELF

Appearing at request of Chair: □ Yes □ No
Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 4/9/19

Bill Number (if applicable) SB 7096

Amendment Barcode (if applicable)

Topic Constitutional Amendments

Name Ginger Blomeley

Job Title Instructional Assistant

Address 30561 Scott St

City San Antonio

State PL

Zip 33576

Phone (352) 588-3779

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 4/9/19

Bill Number (if applicable) SB 7096

Amendment Barcode (if applicable)

Topic Constitutional Amendments

Name Jeneane Maddaloni

Job Title Teacher

Address 15911 Stable Run Dr.

Phone 813 997 5364

City Spring Hill, FL State FL Zip 34610

Representing myself

Speaking: □ For □ Against □ Information

Waive Speaking: □ In Support ☒ Against
(The Chair will read this information into the record.)

Appearing at request of Chair: □ Yes □ No

Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
4-9-2019

Meeting Date

Constitution Amendment

Topic

Jeremy Hayden

Name

Truck Driver

Job Title

1348 NE 1st Street Road

Address

Silver Springs, Florida 34

Street City State Zip

Phone 351-355-9330

Email JeremyScottHayden@GMAIC.com

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

Speaking: For Against Information

Representing myself

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date: 4/9/19

Bill Number (if applicable): 7096

Amendment Barcode (if applicable):

Topic: Constitutional Amendments

Name: Jim Spearr

Job Title:

Address: 310 W College Ave

Phone: 850 228-1294

Email: Jim.e.mugler@statelocal.com

City: Tallahassee

State: FL

Zip: 32301

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against

(The Chair will read this information into the record.)

Representing: Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
4/9/19
Meeting Date

Topic: Constitutional Amendment

Name: Deborah Foote

Job Title: Gov't Affairs Director

Address: 3254 Newberry Blvd
Tallahassee, FL 32311

Phone: 251 533 1798
Email: deborah.foote@sierraclub.org

Speaking: ☐ For ☐ Against ☐ Information
Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Sierra Club FL

 Appearing at request of Chair: ☐ Yes ☐ No
Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE
APPEARANCE RECORD
(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 4/9/19

Bill Number (if applicable) 7096

Amendment Barcode (if applicable)

Topic Constitutional Amendments

Name Kammeron Brown

Job Title

Address 1008 Redbud Ave.
Street
City Tallahassee
State FL
Zip 32303

Phone

Email

Speaking: □ For □ Against □ Information
Waive Speaking: □ In Support □ Against
(The Chair will read this information into the record.)

Representing SELF

Appearing at request of Chair: □ Yes □ No
Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
Meeting Date: 4/19/19

Bill Number (if applicable): 7096

Amendment Barcode (if applicable)

Topic: Constitutional Amendments

Name: Justin Peacock

Job Title

Address: 20569 County Rd 68N

Phone

Email

City: Robertsdale

State: AL

Zip: 36567

Speaking: □ For □ Against □ Information

Waive Speaking: □ In Support □ Against
(The Chair will read this information into the record.)

Representing: Self

Appearing at request of Chair: □ Yes □ No

Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
4/9/18
Meeting Date

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

7096
Bill Number (if applicable)

Amendment Barcode (if applicable)

Citizens' Initiatives
Topic

Brad Ashwell
Name

Lobbyist
Job Title

1536 Chuli Nane
Address

Tallahassee FL 32301
City State Zip

850 - 244 - 1008
Phone

bradashwell@gmail.com
Email

Speaking: ☐ For ☐ Against ☐ Information
Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.)

Representing Common Cause Florida

Appearing at request of Chair: ☑ Yes ☐ No
Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 4/9/19

Bill Number (if applicable) 7096

Amendment Barcode (if applicable)

Topic Constitutional Amendments

Name Robert Doane

Job Title Retiree

Address 1724 Branchwater

Orlando, FL 32825

Phone 407-739-1104

Email bbd@doaner.com

Representing Self

Speaking: □ For □ Against □ Information

Waive Speaking: □ In Support □ Against
(The Chair will read this information into the record.)

Appearing at request of Chair: □ Yes □ No

Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
THE FLORIDA SENATE

APPEARANCE RECORD
(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/9/2019
Meeting Date

7096
Bill Number (if applicable)

Constitutional Amendments
Topic

Jacqui Carmona
Name

Political Director
Job Title

305-651-6677
Phone

jcarmona@afscme.org
Email

Talking

Mami Springs, FL 33166
Address

Representing

AFSCME, Florida

Speaking: □ For □ Against □ Information
Waive Speaking: □ In Support □ Against
(The Chair will read this information into the record.)

Appearing at request of Chair: □ Yes □ No
Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
The Florida Senate

Appearance Record

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 4/9/19

Bill Number (if applicable) SB-7096

Amendment Barcode (if applicable)

Topic Constitution Amendments

Name J.B. Clark

Job Title Legislator

Address 2071 Cynthia Drive

Phone 850-556-8143

Email jbcworks@attuv.com

Address Street

City Tallahassee, Fl 32303

State Zip

Speaking: [] For [] Against [] Information

Waive Speaking: [] In Support [✓] Against
(The Chair will read this information into the record.)

Representing Florida Electrical Workers Assn.

Appearing at request of Chair: [✓] Yes [] No

Lobbyist registered with Legislature: [✓] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 7096

Meeting Date

Bill Number (if applicable)

Topic Constitutional Amendments

Amendment Barcode (if applicable)

Name Adam Campbell

Job Title

Phone 561-452-7748

Address 3738 Kenyon Road

Email

State FL

Zip 33461

Street

City Lake Worth

Speaking: □ For □ Against □ Information

Waive Speaking: □ In Support □ Against

(The Chair will read this information into the record.)

Representing □ Myself

Appearing at request of Chair: □ Yes □ No

Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
Meeting Date: 4/9/19

Topic: Elections

Name: Delores Grayson

Job Title: Retired

Address: 4801 E. Regnas Ave

Phone

Email

Speaking: □ For □ Against □ Information

Waive Speaking: □ In Support □ Against

(The Chair will read this information into the record.)

Representing: Self

Appearing at request of Chair: □ Yes □ No

Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
Appearing at request of Chair: □ Yes □ No
Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 04-09-19

Bill Number (if applicable) 7096

Amendment Barcode (if applicable)

Topic Elections

Name Shamisea Grier

Job Title

Address P.O. Box 292085

Phone 727 336 2418

Email g.shumisgio@gmail.com

City Tampa

State FL

Zip 33687

Speaking: □ For □ Against □ Information

Waive Speaking: □ In Support □ Against
(The Chair will read this information into the record.)

Representing SELF

Appearing at request of Chair: □ Yes  □ No

Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date: 04/09/19

Bill Number (if applicable): 7096

Amendment Barcode (if applicable):

Topic: Elections

Name: Rosa Pyles

Job Title: Retired

Address: 3714 20, Osborne ave

Street:

City: Temple

State: FL

Zip: 33410

Phone: (813) 503-6144

Email:

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [x] Against
(The Chair will read this information into the record.)

Representing: [ ] Self

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [ ] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting. S-001 (10/14/14)
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date: 4/9/19

Bill Number (if applicable): 7096

Amendment Barcode (if applicable):

Topic: Constitutional Amendments

Name: Ida V. Eskamani

Job Title: Public Policy

Address: 126 N. Mills

Orlando, FL 32801

City: Orlando

State: FL

Zip: 32801

Phone: 407-376-4001

Email: ida.eskamani@gmail.com

Speaking: __ For  __ Against  __ Information

Waive Speaking: __ In Support  __ Against

(The Chair will read this information into the record.)

Representing: Organize Florida

Appearing at request of Chair: __ Yes  __ No

Lobbyist registered with Legislature: __ Yes  __ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
THE FLORIDA SENATE

APPEARANCE RECORD

(Provide BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date: 4/9/19

Bill Number (if applicable): 7096

Amendment Barcode (if applicable):

Topic: Constitutional Amendment

Name: Jasmen Rogers-Shaw

Job Title: Staff & Policy Director

Address: 745 NW 54th Street

Phone: (954) 261-1380

City: Miami

State: FL

Zip: 33127

Email: Jasmen@theworkerscenter.org

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against

(The Chair will read this information into the record.)

Representing: Miami Workers Center

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 4/9/19

Bill Number (if applicable) 7096

Amendment Barcode (if applicable)

Topic 

Name KAREN MILLER

Job Title Organizer

Address 831 Piney Village Loop

Tallahassee, FL 32311

City Tallahassee

State FL

Zip 32311

Phone 

Email kmiller@faithinflorida.org

Speaking: □ For  X Against □ Information

Waive Speaking: □ In Support □ Against

(The Chair will read this information into the record.)

Representing FAITH IN FLA

Appearing at request of Chair: □ Yes  X No

Lobbyist registered with Legislature: □ Yes  □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic 7096

Name Marcus McCay, Jr.

Job Title Pastor

Address 542 W. Church St

                      Orlando           FL          32805

                      City          State          Zip

Phone

Email

Speaking: ☑️ Against ☐ Information

Waive Speaking: ☐ In Support ☑️ Against
(The Chair will read this information into the record.)

Representing Faith In Florida

Appearing at request of Chair: ☑️ Yes ☐ No

Lobbyist registered with Legislature: ☑️ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
The Florida Senate

Appearance Record

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/9/19

Meeting Date

7096

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic

Name

Frank Walker

Job Title

VP, CA

Address

136 S. Bronough St.

Street

Tallahassee, FL 32305

City State Zip

Phone

Email

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against

(The Chair will read this information into the record.)

Representing

Florida Chamber of Commerce

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
The Florida Senate

Appearance Record

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date: 4/9/19

Bill Number (if applicable): 7096

Amendment Barcode (if applicable): 

Topic: Elections

Name: Tim Heberlein

Job Title: 1224 E. Frierson Ave

Address: Tampa, FL 33603

Phone:

Email:

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against

(The Chair will read this information into the record.)

Representing: 

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date: 04/09/19

Bill Number (if applicable): "0945"

Amendment Barcode (if applicable): "7096"

Topic: Elections

Name: Angela Nixon

Job Title: 

Address: 3954 Victoria Landing Dr N

City: Jacksonville

State: FL

Zip: 32209

Phone: 

Email: 

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against

(The Chair will read this information into the record.)

Representing: myself and my community

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
THE FLORIDA SENATE

APPEARANCE RECORD

Meeting Date: 04/09/19

Bill Number (if applicable): 709

Topic: Elections

Name: Amy Busefink

Job Title: ____________

Address: 13587 Feather Sound Dr. E.
          Clearwater, FL 33762

Phone: ____________

Email: ____________

Speaking:  □ For  □ Against  □ Information

Waive Speaking:  □ In Support  □ Against
(The Chair will read this information into the record.)

Representing: ____________

Appearing at request of Chair:  □ Yes  □ No

Lobbyist registered with Legislature:  □ Yes  □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE
APPEARANCE RECORD

4/9/19
Meeting Date

(CONSTITUTIONAL AMENDMENT)
Topic

BETH ALLI
Name

POLICY DIRECTOR
Job Title

308 N. MONROE
Address

Phone

Email

Speaking: ❑ For ❑ Against ❑ Information
Waive Speaking: ❑ In Support ❑ Against
(The Chair will read this information into the record.)

AUDUBON FL
Representing

Appearing at request of Chair: ❑ Yes ❑ No
Lobbyist registered with Legislature: ❑ Yes ❑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
The Florida Senate
Appearance Record

(Provide BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date: 4/9/19

Bill Number (if applicable): 7096

Amendment Barcode (if applicable)

Topic: Constitutional Amendment

Name: Charo Valero

Job Title: Florida State Policy Director

Address: 1951 NW 7th Ave #6000

Phone: 786-442-9109

Email: charo@latina.org

City: Miami

State: FL

Zip: 33134

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against

(The Chair will read this information into the record.)

Representing: Florida Latina Advocacy Network

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting. S-001 (10/14/14)
4/9/19

Meeting Date

Constitution Amendments

Topic

Theresa King

Name

President

Job Title

PO Box 10888

Address

850-228-8940

Phone

fbt.king

Email

Tallahassee, FL 32302

City State Zip

Speaking: □ For □ Against □ Information

Waive Speaking: □ In Support □ Against
(The Chair will read this information into the record.)

Representing Florida Building & Construction Trades

Appearing at request of Chair: □ Yes □ No

Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
Meeting Date: 2.9.19

Bill Number (if applicable): SB 7096

Amendment Barcode (if applicable): 

Topic: Constitutional Amendments

Name: Carolyn Cummings-Tucker

Job Title: 

Address: 1613 NW 14th Street, Ft. Lauderdale, FL 33311

Phone: 954.534.6033

Email: 

Speaking: □ For □ Against □ Information

Waive Speaking: □ In Support □ Against
(The Chair will read this information into the record.)

Representing: Myself

Appearing at request of Chair: □ Yes □ No

Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date: 4/9/19

Bill Number (if applicable): SB 7096

Amendment Barcode (if applicable):

Topic ________________________________

Name: Noah Hollimon

Job Title ________________________________

Address: 2704 Willow Lane, Lauderdale Lake, FL

Street

City

State

Zip

Phone: 954-288-1434

Email ________________________________

Speaking: □ For □ Against □ Information

Waive Speaking: □ In Support □ Against
(The Chair will read this information into the record.)

Representing ________________________________

Appearing at request of Chair: □ Yes □ No

Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
4/9/19

Meeting Date

Constitutional Amendments

Name: Linda Lewis

SB 7096

Bill Number (if applicable)

Amendment Barcode (if applicable)

Job Title

Address: 2846 S.W. 4th Court

H. Lauderdale, FL 33312

Phone: 954-60

Email

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [X] Against

(The Chair will read this information into the record.)

Representing: [ ] Self

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
The Florida Senate

Appearance Record

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

July 31, 19

Bill Number (if applicable)

7034

Amendment Barcode (if applicable)

Topic

Name: Dara Shumate

Job Title

Address: 12 NW 48th Ave

Street: Pennfield Bark, Fl 33442

City: State: Zip:

Phone

Email

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [x] Against

(The Chair will read this information into the record.)

Representing [ ] Self

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [ ] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
THE FLORIDA SENATE

APPEARANCE RECORD

4/9/19
Meeting Date

Constitution Amendment
Topic

Lindy Bess
Name

Job Title

Address
916 E. Johnson Ave
Street
Tallahassee, FL 32303
City State Zip

Phone

Email
aaa8501@yahoo.com

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing
Sally

 Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 4/9/19

Bill Number (if applicable) 7096

Amendment Barcode (if applicable)

Topic Constitutional Amendments (Judiciary)

Name Vanessa Keeverenge

Job Title

Address 111 Campbell Drive
Winter Haven Florida 33881

Phone (863) 221-6100

Email VanessaKeeverenge@gmail.com

Speaking: ☐ For ☐ Against ☐ Information
Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☑ No
Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting. S-001 (10/14/14)
The Florida Senate

Appearance Record

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 4/9/19

Bill Number (if applicable) 7096

Amendment Barcode (if applicable)

Topic Constitutional Amendment

Name Jerome Bess

Job Title

Address GY 6 E. Blumen Ave

Street Pensacola

City FL Zip 32504

Phone 850 501 2903

Email

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [x] Against
(The Chair will read this information into the record.)

Representing [x] Self

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
April 9, 19

Meeting Date

SB 7096, Senate Trans, Tourism

Topic

Bill Number (if applicable)

7096

Amendment Barcode (if applicable)

Brenda Fischer

Name

Educator

Job Title

8812 N 46 Ave

Address

33021

City

State

Zip

Phone

Email

Speaking: □ For □ Against □ Information

Representing

Self

Waive Speaking: □ In Support □ Against
(The Chair will read this information into the record.)

Appearing at request of Chair: □ Yes □ No

Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name

RICHARD ROULETTE

Job Title

Address

2841 OAK DR.

Phone

561-312-4111

Email

RICK.ROULETTE@AOL.COM

City

W.P.B.

State

FL

Zip

33406

Speaking: □ For  □ Against  □ Information

Waive Speaking: □ In Support  □ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: □ Yes □ No

Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
Meeting Date: 4/9/2019

Bill Number (if applicable): 7096

Amendment Barcode (if applicable): 

Topic: Amendments

Name: Matthew Panziano

Job Title: Teacher

Address: 13451 Colony Square Dr.

Phone: 

Email: 

City: Orlando

State: FL

Zip: 32837

Speaking:□ For □ Against □ Information

Waive Speaking: ■ In Support □ Against
(The Chair will read this information into the record.)

Representing: Self

 Appearing at request of Chair: ■ Yes □ No

Lobbyist registered with Legislature: ■ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

7/9/19

Bill Number (if applicable)

7096

Amendment Barcode (if applicable)

Topic

Amendment

Name

Brian Morin

Job Title

Educator

Address

5228 Avalon Dr

Street

Orlando

City

FL

State

32837

Zip

Phone

Email

brian.andrew.morin@ymail.com

Speaking: □ For □ Against □ Information

Waive Speaking: □ In Support □ Against
(The Chair will read this information into the record.)

Representing

Self

Appearing at request of Chair: □ Yes □ No

Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
4/9/19

Meeting Date

Topic  Constitutional Amendments

Name  Adam Basford

Job Title  Legislative Affairs Dir

Address  310 W College

City  Tallahassee

State  FL

Zip  32301

Phone  222-2597

Email  adam.basford@fsfsb.org

Speaking:  □ For  □ Against  □ Information

Waive Speaking:  □ In Support  □ Against

(The Chair will read this information into the record.)

Representing  FL Farm Bureau

Appearing at request of Chair:  □ Yes  □ No

Lobbyist registered with Legislature:  □ Yes  □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 4.9.2019

Bill Number (if applicable) 7096

Amendment Barcode (if applicable)

Topic Constitutional Amendments

Name Dr. Richard Templin

Job Title Director of Politics & Public Policy

Address 135 S Monroe St

City Tallahassee

State FL

Zip 32301

Phone 850.224.6926

Email templin.filipclay3@gmail.com

Speaking: [X] Against [ ] For [ ] Information

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Florida APL-CIO

Appearing at request of Chair: [X] No [ ] Yes

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic: Constitutional Amendments - ballot initiatives

Name: Jim Kallinger

Job Title

Address: 1408 Pullen Rd.

Street

City: Tallahassee

State: FL

Zip: 32303

Phone: 850-322-6396

Email: jim.kallinger@gmail.com

Speaking: ☑️ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☑ No Against
(The Chair will read this information into the record.)

Representing: ☑️ Self ☐ Lobbyist

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE
APPEARANCE RECORD

4/9/2019
Meeting Date

Topic Constitutional Amendments

Name Scott McCoy

Job Title Senior Policy Counsel

Address
P.O. Box 10788
Street
Tallahassee
City FL
32311 State Zip

Speaking:  □ For  ✔ Against  □ Information
Waive Speaking:  □ In Support  □ Against
(The Chair will read this information into the record.)

Representing Southern Poverty Law Center Action Fund

Appearing at request of Chair:  □ Yes  ✔ No
Lobbyist registered with Legislature:  ✔ Yes  □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
4/9/19
Meeting Date

Constitutional amendments
Topic

AULI Moncrief (a-LEE-key)
Name

Executive Director
Job Title

1700 N. Monroe St #11-286
Address

Tallahassee, FL 32303
City State Zip

1850) 629-4656
Phone

Contact@fcvraters.org
Email

Speaking:  ☒ Against  ☐ Information

Representing Florida Conservation Voters

Appearing at request of Chair:  ☒ Yes ☐ No

Lobbyist registered with Legislature:  ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
4/9/19
Meeting Date

Topic: Constitutional Amendments

Name: Marcus Dixon

Job Title: Political Director

Address: 2881 Corporate Way

City: Miramar

State: FL

Zip: 33025

Phone: (305) 720-1627

Email: Marcus.Dixon@seiufl.org

Speaking: ☑ Against ☐ Information

Representing: SEIU Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
The Florida Senate

Appearance Record

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date: 4/9/19

Bill Number (if applicable): 7096

Amendment Barcode (if applicable)

Topic: Constitutional Amendments

Name: Karen Woodall

Job Title: Executive Director

Address: 579 E. Call St.

Tallahassee, FL 32301

Phone: 850-321-9386

Email: fcfep@yahoo.com

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against

(The Chair will read this information into the record.)

Representing: Florida Center for Fiscal & Economic Policy

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 4/9/19

Bill Number (if applicable) SPB 7096

Amendment Barcode (if applicable)

Topic Constitutional Citizens Initiative

Name Julie Morral

Job Title

Address 2600 NE 21st St

Phone 954 565 8965

Address 46 Lauderdale Dr Fl 33305

Email MorrallCh@hotmail.com

City State Zip

Speaking: [ ] For [X] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing [X] Self

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
Meeting Date: 4/9/19

Bill Number (if applicable): 7096

Amendment Barcode (if applicable): 

Topic: 7096

Name: Mary Anne Taylor

Job Title: Relator

Address: 5838 Marsh Landing Dr

Street: Winter Haven FL 33881

City: State: Zip: 

Phone: Email: lynx1952a@bellsouth.net

Speaking: For [X] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against

(The Chair will read this information into the record.)

Representing: Self

 Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
Topic: Constitutional Amendments
Name: Ellen Baker
Address: 5673 Whirlaway Rd
City: PBG
State: FL
Zip: 33418
Phone:
Email:

Speaking: [X] Against  [ ] Information

Representing: self

Appearing at request of Chair: [X] No

Lobbyist registered with Legislature: [ ] Yes  [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date: 4/9/19

Bill Number (if applicable): 7096

Amendment Barcode (if applicable):

Topic: Restricting Constitutional Amendments

Name: Kara Gross

Job Title: Legislative Director

Address: 4343 West Flagler St., 400

Phone: 786-363-4436

Email: kgross@aclufl.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing: ACLU of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/9/19

Meeting Date

7096

Bill Number (if applicable)

Consti

To

tional

Adm

endments

Amendment Barcode (if applicable)

Laura Novosad

Name

President Democratic Women's Club Hendry Co.

Job Title

Address

3230 Ft. DeSoto Rd.

Phone

City Ft. DeSoto Fla. 33735

State Zip

Email

Speaking: [ ] For [X] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing [ ] Self

Appearing at request of Chair: [ ] Yes [X] No
Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
April 9, 2019

Topic Constitutional Amendments

Name Barbara Alber

Job Title Educator

Address 123 Puffin Court

City Royal Palm Beach, Florida

State Florida

Zip 33411

Speaking: □ For □ Against □ Information

Phone

Email

Representing Self

Appearing at request of Chair: □ Yes □ No

Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/9/2019
Meeting Date

7096
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic elections

Name Rodney E. Johnson

Job Title Community Organizer

Address 3307 E. North Bay Street

Tampa, FL 33610

Phone 813-431-1858

Email Rodney.organic.Florida@gmail.com

Speaking: [ ] For [x] Against [ ] Information

Representing Organization Florida

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Appearing at request of Chair: [x] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Bill Number (if applicable)

Topic Electing

Amendment Barcode (if applicable)

Name Sophia Glover

Representing

Job Title

Phone 407 961 9834

Address 2 E. Hammer Dr.

Email SophiaGlover91@gmail.com

Apopka Fl 32703

Zip

Speaking: [x] Against [ ] Information

Waive Speaking: [ ] In Support [x] Against
(The Chair will read this information into the record.)

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
CourtSmart Tag Report

Room: EL 110  Case No.:  Type:  
Caption: Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development  Judge:  

Started:  4/9/2019 4:03:12 PM  

4:03:19 PM  Sen. Hutson (Chair) Call to Order  
4:03:21 PM  Roll Call  
4:03:35 PM  Quorum Present  
4:03:52 PM  Sen. Simpson (Chair)  
4:04:54 PM  Tab 2 - CS/SB 676  
4:05:01 PM  Sen. Hooper  
4:05:53 PM  AM. 545880  
4:06:02 PM  Sen. Hooper  
4:06:26 PM  AM. 545880 - approved  
4:06:31 PM  CS/SB 676 cont.  
4:06:38 PM  David Childs, Counsel, National Marine Manufacturers Association (waive in support)  
4:06:49 PM  Roll Call - CS/SB 676  
4:07:17 PM  CS/SB 676 - Voted favorable  
4:07:31 PM  Tab 5 - SB 1306  
4:07:34 PM  Sen. Book  
4:10:47 PM  AM. 285186  
4:10:54 PM  Sen. Book  
4:11:04 PM  AM. 285186 - approved  
4:11:19 PM  SB 1306 cont.  
4:11:25 PM  Bob Harris  
4:14:09 PM  Sen. Simpson  
4:14:16 PM  Sen. Book  
4:14:25 PM  Roll Call - SB 1306  
4:14:45 PM  SB 1306 - Voted favorable  
4:14:57 PM  Tab 1 - CS/SB 542  
4:14:59 PM  CS/SB 542 - Temporarily postponed  
4:15:12 PM  Sen. Brandes  
4:15:52 PM  Tab 3 - SB 892  
4:15:59 PM  Sen. Passidomo  
4:17:20 PM  Phillip Schwartz, Business Law, Florida Bar (waive in support)  
4:17:23 PM  Steven Shiver, Tax Section, Florida Bar (waive in support)  
4:17:35 PM  Roll Call - SB 892  
4:17:55 PM  SB 892 - Voted favorable  
4:18:02 PM  Tab 1 - CS/SB 542 cont.  
4:18:21 PM  Sen. Brandes  
4:18:22 PM  Sen. Torres  
4:19:13 PM  Sen. Brandes  
4:20:07 PM  Sen. Torres  
4:20:15 PM  Javier Correoso, Uber (waive in support)  
4:20:24 PM  Chris Scoonover, Lime (waive in support)  
4:20:33 PM  Diego Echeverri, Director of Coalitions, Americans for Prosperity (waive in support)  
4:20:46 PM  Sen. Lee  
4:22:20 PM  Roll Call - CS/SB 542  
4:22:37 PM  CS/SB 542 - Voted favorable  
4:22:47 PM  Tab 4 - SB 1054  
4:22:55 PM  Sen. Lee  
4:25:03 PM  Sen. Torres  
4:25:30 PM  Sen. Lee  
4:27:14 PM  Sen. Torres  
4:28:29 PM  Diego Echeverri, Director of Coalitions, Americans for Prosperity (waive in support)  
4:28:35 PM  Sen. Torres
4:29:22 PM Sen. Lee
4:29:53 PM Roll Call - CS/SB 1054
4:30:13 PM CS/SB 1054 - Voted Favorable
4:30:29 PM Tab 6 - SB 7096
4:30:35 PM Sen. Simmons
4:42:36 PM Sen. Hutson (Chair)
4:42:44 PM AM. 400932 - approved
4:42:50 PM Sen. Simmons
4:43:08 PM Sen. Taddeo
4:43:40 PM Sen. Simmons
4:49:12 PM Sen. Thurston
4:50:01 PM Sen. Simmons
4:52:35 PM Sen. Thurston
4:53:56 PM Sen. Thurston
4:54:04 PM Sen. Simmons
4:54:18 PM Sen. Thurston
4:54:27 PM Sen. Simmons
4:55:36 PM Sen. Thurston
4:55:57 PM Sen. Simmons
4:56:22 PM Sen. Brandes
4:56:35 PM Sen. Simmons
4:58:28 PM Sen. Torres
4:59:03 PM Sen. Hutson
4:59:14 PM Sen. Brandes
5:00:36 PM Sen. Thurston
5:02:04 PM Sen. Taddeo
5:02:42 PM Sen. Lee
5:04:15 PM Sen. Simmons
5:04:58 PM AM. 400932 - approved
5:04:59 PM SB 7096 cont.
5:05:23 PM Sen. Lee
5:06:56 PM Sen. Simmons
5:08:26 PM Sen. Lee
5:09:16 PM Sen. Simmons
5:10:29 PM Sen. Lee
5:11:09 PM Sen. Simmons
5:12:04 PM Sen. Lee
5:13:22 PM Sen. Simmons
5:15:59 PM Sen. Thurston
5:16:22 PM Sen. Simmons
5:17:54 PM Sen. Thurston
5:18:06 PM Sen. Simmons
5:19:12 PM Sen. Thurston
5:19:28 PM Sen. Simmons
5:20:45 PM Mathew Kelly (waive in opposition)
5:20:54 PM Ginger Blomeley, Instructional Assistant (waive in opposition)
5:21:04 PM Jeneane Maddaloni, Teacher (waive in opposition)
5:21:10 PM Jeremy Hayden, Truck Driver (waive in opposition)
5:21:17 PM Jim Spratt, Associated Industries of Florida (waive in support)
5:21:25 PM Deborah Foote, Government Affairs Director, Sierra Club Florida (waive in opposition)
5:21:35 PM Kammeron Brown (waive in opposition)
5:21:36 PM Justin Peacock (waive in opposition)
5:21:42 PM Brad Ashwell, Lobbyist, Common Cause Florida (waive in opposition)
5:21:51 PM Robert Doane (waive in opposition)
5:21:53 PM Jacqui Carmona, Political Director, AFSCME Florida
5:22:03 PM J.B. Clark, Lobbyist, Florida Electrical Workers Association (waive in opposition)
5:22:12 PM Adam Campbell (waive in opposition)
5:22:18 PM Delores Grayson (waive in opposition)
5:22:25 PM Elton Lassiter (waive in opposition)
5:22:31 PM Shamisea Grier (waive in opposition)
5:22:37 PM Rosa Pyles (waive in opposition)
5:22:38 PM Ida V. Eskamani, Public Policy, Organize Florida (waive in opposition)
5:22:43 PM Jasmen Rogers-Shaw, Staff & Policy Director, Miami Workers Center (waive in opposition)
5:22:50 PM Karen Miller, Organizer, Faith in Florida (waive in opposition)
5:22:59 PM Marcus McCoy Jr., Pastor, Faith in Florida (waive in opposition)
5:23:05 PM Frank Walker, VP, Florida Chamber of Commerce (waive in support)
5:23:10 PM Tim Heberlein (waive in opposition)
5:23:17 PM Angela Nixon (waive in opposition)
5:23:23 PM Amy Busefink (waive in opposition)
5:23:29 PM Beth Alvi (waive in opposition)
5:23:38 PM Charo Valero, Florida State Policy Director, Florida Latina Advocacy Network (waive in opposition)
5:23:52 PM Theresa King, President, Florida Building and Construction Trades (waive in opposition)
5:24:01 PM Carloyn Cummings (waive in opposition)
5:24:07 PM Noah Hollimou (waive in opposition)
5:24:13 PM Linda Lewis (waive in opposition)
5:24:18 PM Dana Shumate (waive in opposition)
5:24:25 PM Cindy Bess (waive in opposition)
5:24:29 PM Vanessa Keverenge (waive in opposition)
5:24:33 PM Jerome Bess (waive in opposition)
5:24:38 PM Brenda Fischer, Educator (waive in opposition)
5:24:44 PM Richard Poulette (waive in opposition)
5:24:50 PM Matthew Panzano, Teacher (waive in opposition)
5:24:54 PM Brain Moriati, Educator (waive in opposition)
5:24:59 PM Adam Basford, Legislative Affairs Director, Florida Farm Bureau (waive in support)
5:25:10 PM Dr. Richard Templin, Director of Politics and Public Policy, Florida AFL - CIO
5:30:29 PM Jim Kallinger
5:32:13 PM Sen. Thurston
5:32:21 PM J. Kallinger
5:32:44 PM Scott McCoy, Senior Policy Counsel, Southern Policy Law Center Action Fund
5:38:31 PM Aliki Moncrief, ED, Florida Conservation Voters
5:42:26 PM Marcus Dickson, Political Director, SEIU Florida
5:44:29 PM Karen Woodall, ED, Florida Center for Fiscal and Economic Policy
5:46:20 PM Julie Morral (waive in opposition)
5:46:27 PM Mary Ann Taylor (waive in opposition)
5:47:09 PM Ellen Baker (waive in opposition)
5:47:16 PM Kira Cross, Legislative Director, ACLU of Florida (waive in opposition)
5:47:23 PM Laura Novansa, President, Democratic Woman's Club Hendry County (waive in opposition)
5:47:34 PM Barbara Alber, Educator
5:48:36 PM Rodney Johnson, Community Organizer, Organize Florida (waive in opposition)
5:48:44 PM Sophia Glover
5:51:02 PM Sen. Taddeo
5:52:57 PM Sen. Torres
5:54:07 PM Sen. Thurston
5:57:14 PM Sen. Lee
5:57:53 PM Roll Call - CS/SB 7096
5:58:19 PM CS/SB 7096 - Voted favorable
5:58:21 PM Sen. Thurston moves to adjourn
5:58:28 PM